

**ARMS PROCUREMENT COMMISSION**

*Transparency, Accountability and the Rule of Law*

**PUBLIC HEARINGS**

**PHASE 2**

**DATE : 25 MARCH 2015**

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**HEARING ON 25 MARCH 2015**

CHAIRPERSON: Good morning.

**RICHARD MICHAEL MOBERLY YOUNG**: (s.u.o.)

ADV KUPER: Thank you, Chair. Dr Young, yesterday, at this stage of  
5 the adjournment, I had been dealing with the topic BAeSema and I had  
been dealing with the topic of your relationship with your previous  
employer, UEC. I just want to finish that off, by revising a remark that  
you made, during the course of your evidence, in order to demonstrate  
10 how good a relationship was and there remained, between UEC and  
yourself, even after you had publicly gone across to C Square I Square.  
You related an incident between Mr Duncan Hiles and yourself, which  
reported at the transcript at page 9810 and 9811. But, I am sure you  
remember it and I can remind you. The point you were making was that  
you met Mr Hiles in a parking lot and he came across and to use your  
15 words:

*“He actually made sure he got into military step.”*

And you said he said to you:

*“Let us march or let us walk step by step together in this, without  
tripping each other up.”*

20 Do you remember?

DR YOUNG: Yes. I do.

ADV KUPER: You quoted that, as an indication of an enduring  
friendship and trust, between Mr Hiles and yourself. But, oddly it seems  
to me, the remark, you remember is an appeal by Mr Hiles that this time  
25 around, you should not trip him up.

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DR YOUNG: Not at all. That is not the, that is not what I said. I was the one, who was there. I remember. Also, you are wrong, when you said it was in a parking lot. I said it was just outside the main offices of UEC projects, in Mount Edgecombe. It was when I was walking to the parking lot, which is quite a long way away. I remember it quite graphically and it was also around about 93, 94, which was a year or two, after I had left C Square I Square. So, your putting it in the context of an enduring relationship is also, is not actually correct. All I wanted to I wanted to demonstrate was that a year after I had left UEC projects they did not, at that particular stage, there did not seem to be any animosity. That is, the second part is, certainly, the context of the conversation and the engagement, had nothing to do, with rectifying a problem. It was, I would maybe elaborate, he said, oh, I hear that we are now working together on this and then, that is. It was not as that, oh, we have had a problem before and now, let us rectify it. So, you are wrong in that contention.

ADV KUPER: Why do you think, a man would come across to you, to put his arm around you and to make this remark, about not tripping up?

DR YOUNG: It was made in the future tense. It was not, there was no context whatsoever of the past tense. Because it had never happened you see. It was just, maybe it was a friendly warning for the, for the future that, you know, C Square I Square had a capability of some, well, a lower level of system integration and that was what, of Naval system integration and that is what UEC projects was doing, a bit more data at combat suite level. So, maybe it, but there was certainly,

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it, there was no warning. There was no body, negative body language. I am pretty good at reading people's body languages and subliminal signs. There was nothing of that, whatsoever.

ADV KUPER: I think we can leave the topic and move on to a topic,  
5 which I hope, will be very short and where I am really asking you, whether you are prepared to withdraw and apologise for your comments and criticism, regarding Admiral Kamerman, in regard to what you call, the revolving door. Do you remember that particular attack, which you made?

10 DR YOUNG: I would not call it an attack. It is just a, it is a bringing of certain information to the attention of this Commission. But, I do, I do remember the issue of, of the revolving door.

ADV KUPER: Do you want to suggest to the Commission that Admiral Kamerman behaved in some way badly or irregularly?

15 DR YOUNG: Yes. I do.

ADV KUPER: What is it that you want to say he did that was bad or irregular?

DR YOUNG: There are two things. May I either find and I think I can remember from the first file that you gave me, the day before yesterday  
20 that that letter of permission to the then Chief of the Navy is in the file. Either you can take me to that, or I find it myself.

ADV KUPER: I am sorry, you want to refer to that letter. Do you?

DR YOUNG: Yes. I do.

ADV KUPER: I am told, you will find it, in the volume one of the cross-  
25 examination file, at 234.

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DR YOUNG: I have that.

ADV KUPER: What is the point you wanted to make?

DR YOUNG: Sorry, there are actually two points, one in the context of this letter, which was written by him. That is common case. The  
5 second, one, second is that it is submitted into evidence to this Commission. Those are two related points and then the other one is his own evidence, which I addressed in my evidence in chief and they are related. But, just using this particular letter, because it is right in front of me, but the points are very, very similar. If we go to, okay, this is a letter  
10 to the Chief of the Navy, requesting that the, the contractual conditions, allowing him to join a supplier, before the stipulated period. Okay. Anyway, there, of course, there are many, many related issues and seeing I am under cross-examination I am not going to address those, unless they come to me. But, I am just going to address what you have  
15 put to me. If we look at paragraph 2, it is stated here:

*“Although there is no direct contractual relationship, between my future employer and any of my past or current duties, I nevertheless established with them the principal.”*

Anyway, it carries on. There, that cannot possibly be correct. It says  
20 there:

*“Although there is no direct contractual relationship (okay) and any of my past or current duties.”*

Okay. Now, let us leave current duties, but past duties. It is on the record, in terms of Admiral Kamerman’s own evidence that he was  
25 responsible for drawing up most of the technical terms, for the Corvette

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and the Corvette combat suite and specifically regarding the combat suite, which is my main area. He is the author, in his own words, of the user requirements specification. He is also on the record, under oath, of saying that he was intimately involved, as the leader of the Joint Project  
5 Team for drawing up the supply, the supply terms. Now, in, certainly, in my view, in my understanding of the words, that is being directly involved in, in the past. So, I think, certainly, unless gets pointed out to me, convincingly that this statement here it cannot be correct.

ADV KUPER: Do you want to make any other points about the  
10 revolving door?

DR YOUNG: Just, yes, of course, more for the, the, for the relevance of the Commission, if we remember the German investigation reports, which you have just written, written off as absurd rubbish, which I disagree with. The interesting point there is, the investigator reports that  
15 they were in possession of some kind of documents. I suppose, it might even have been a, some kind of letter, relating to employment. But, anyway, specifically regarding the employment, with the reference of time, to January, but at the same paragraph or same page, at least, if I can remember, is Admiral Kamerman's last payslip from the SA Navy  
20 was in September. So, it would be interesting for me, at least, to know, whether there was an overlap in employment or not. But, that is just a point I want to make for the benefit of the Commission.

ADV KUPER: And is there any other point that you want to make to the Commission, about the revolving door?

25 DR YOUNG: Well, seeing that you are asking me is, the same, a very

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similar point, as in, is in this letter, he has given in both his witness statement and his oral evidence, which, in my view is, well, in his own evidence is actually contradictory.

ADV KUPER: I am afraid that is not coherent to anyone, who listens to  
5 you. You had better expand.

DR YOUNG: I said in, as far as I can remember and I will go to it, if necessary, in Admiral Kamerman's witness statement and its annexures, he included a cv. The cv clearly states that he was a prime mover or primarily responsible, at least the joint, at, at least the team level for  
10 setting the Corvette and the Corvette combat suite technical base line. He also says that he was intimately involved, as the leader of the team that put together the supply terms, for the contract. Okay. But, later says that he did not, he says, you know, I think, more of this is his oral evidence that even though he requested permission, from the Chief of  
15 the Navy to take this early retirement from the navy it was. He had no necessity of doing so, because had nothing to do with, he had nothing to do with the contract anyway. Whereas, if one reads the supply terms, oh, sorry, the umbrella agreement, it specifically says that anybody, who had anything to do with the contract, not whether they had, they were  
20 intimately involved in drawing up the supply terms with a capital S and a capital, anything to do with the contract. So, what I am saying is, his evidence, oral evidence in that regard is contradictory to his documentary evidence, regarding, especially what is traversed in his cv.

ADV KUPER: Anything else?

25 DR YOUNG: No. I think that is sufficient.

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ADV KUPER: Well, let us start with the last point and work backwards for the moment. Is it your understand, for whatever that may be worth that Admiral Kamerman was a party to and bound by the employment clause in the umbrella agreement?

5 DR YOUNG: Yes.

ADV KUPER: Why do you say that?

DR YOUNG: Because he had something to do with the drawing up of what led to a supply contract, between the German Frigate Consortium and the South African government.

10 ADV KUPER: Dr Young, do you understand what it means to be party to a contract and bound by a contract?

DR YOUNG: Well, that is not the point. The point is, the umbrella agreement states, does not state that he ...[intervene]

CHAIRPERSON: I am sorry, Dr Young. Please answer the question.

15 You can, the question is put to you. You cannot just simply say that is not the point. Listen to what council is saying and answer only the question. It is not for you to decide, whether the question is relevant or not. That you leave to us.

DR YOUNG: Alright. I would say that he is not a formal party to the  
20 supply, to the umbrella agreement, or the supply terms.

ADV KUPER: Why do you use the word formal, to try and qualify something, which is blindingly obvious that he was not a party to the umbrella agreement, whether directly or indirectly, whether formally or informally. Do you accept he was not a party to the umbrella  
25 agreement?

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DR YOUNG: In contractual terms, I will, I will accept that.

ADV KUPER: You accept that he had no contractual obligations, imposed upon him, by the umbrella agreement?

DR YOUNG: He probably, strictly speaking, now that I am thinking of  
5 it, the umbrella agreement was between the South African government and the German Frigate Consortium. So, actually, the contractual terms related to them and not to him.

ADV KUPER: And this is the first moment that you have understood that.

10 DR YOUNG: In those stark black and white terms, yes.

ADV KUPER: So, would you like to retract the point you made, concerning the umbrella agreement and his conduct, in respect of the umbrella agreement?

DR YOUNG: No. I would not, because it still happened and whether,  
15 you know the, the wrongful party. Well, there has to be a wrongful, a wrongful party here. If it is not him, then it is one of the contractual parties, to whom that umbrella agreement and those remedies, in the case of bribes clause apply. But, the issue of revolving door is still live and still valid.

20 ADV KUPER: Will you please identify, for the Commissioners, which party, you say, breached the umbrella agreement, by employing Admiral Kamerman, or having anything to do with him?

DR YOUNG: Well, it is a, it is not an absolutely black and white issue for me right now. But, the point is that he did leave the employ of the  
25 South African Navy. The umbrella agreement clearly states that a

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supplier may not employ a person, who was in any way involved with the drawing up of the supply terms of the contract. That is what happened. Whether he got, and what I have clearly, at least, stated and not necessarily proved, that his permission that he sought, of course, 5 well, you know, it is interesting that he sought permission when he, when he did not need to at all. That in itself is a relevant point. But, let us put that aside for a moment and be as it may, that he did have to seek such written permission, then the letter, which I have just referred to, kicks into place. What I am saying is, the letter contains something 10 that in my view is not factual.

ADV KUPER: The question I had asked you, was to identify the contractual party, who had breached the terms of the umbrella agreement. Are you going to answer that? Or are you not?

DR YOUNG: Well, I would say, possibly the people, who breached it 15 was the South African Defence Force. But, it was based on incorrect information, supplied by Admiral Kamerman.

ADV KUPER: How did the South African Defence Force breach the terms of the umbrella agreement?

DR YOUNG: They allowed him to join a supplier, before the terms, 20 the time of the, set out in the umbrella agreement had expired.

ADV KUPER: The obligation was an obligation on a prospective employer, not to employ any person, who had worked on the project, without the consent of the South African government, South African Defence Force. Why do you think, or say, or believe, there was an 25 obligation on the South African Defence Force, not to give permission?

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DR YOUNG: What I am saying is, permission was given, but it was based on, what seems to me, on the face of it, false information.

ADV KUPER: So, what we get down to, at the end of the day, is that you take issue with the opening wording of his paragraph 2:

5       *“Although there is no direct contractual relationship, between my future employer and any of my past or current duties.”*

You say that is what you complain about.

DR YOUNG: In a nutshell, yes.

ADV KUPER: What is the direct contractual relationship, between his  
10 future employer and his past or current duties?

DR YOUNG: Well, I think the important part there is his, you know, the past duties, having, his past duties were involved in the culmination of the supply contract for a frigate, being supplied by Blohm and Voss, which eventually became part of ThyssenKrupp Marine Systems. As far  
15 as I understand, is that is exactly what, what Admiral Kamerman’s current duties involve is selling warships to prospective clients across the, across the globe.

ADV KUPER: Yes. I am asking it one more time, Dr Young, and then I would leave it. Would you identify the direct contractual relationship,  
20 between Admiral Kamerman’s present employers and his past or current duties?

DR YOUNG: Well, just as I stated it.

ADV KUPER: And that is then the beginning and the end of your complaints about the revolving door, namely your interpretation of the  
25 opening words of paragraph 2 of the letter. Is that right?

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DR YOUNG: Well that and as I have said, what was stated in the written and oral evidence on the same matter.

ADV KUPER: What was stated in the written and oral evidence, by Admiral Kamerman, who gave the evidence before the Commission and  
5 in respect of whom, I will come back to it. I do not want you to get tangled with it now. You may have had an opportunity to cross-examine him. But, what was said by him was an explanation of the procedures he had followed, in order to make it acceptable and in terms of practice, within the Navy, to resign from, to resign from the contract he was under  
10 with the Navy and to move into fresh employment. What of that do you challenge?

DR YOUNG: What I challenge is that he states that he had no obligation, whatsoever, to seek such permission. But, he actually did. There had to be a reason for that. But, then, he went on to say, I had  
15 nothing to, well, actually what he said was that he had nothing to do with, well, he was not party to the supply terms, which is true. But, that is not what the umbrella agreement states. It states here and I have got that in front of me that the seller and each of its members shall not, for a period of eight years, from the effective date, employ any employee or  
20 former employee of the South African National Defence Force or Armscor, who is or was in any way involved with the agreement. Not as party to the agreement, but in any way involved with the agreement. That is the point I am trying to make. I put it no higher or lower than that.

25 ADV KUPER: Yes. I really would feel guilty about wasting the time of

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the Commission, by pursuing this further. I am going to leave it and to move on to a topic, where perhaps you can help and assist the Commission. That is in regard to your grievances about risk, as you call it. Can I ask the Commission to have before it volume 4 of the cross-examination file, but also file three of bundle of documents, put in by Dr Young. Would you please turn, in the cross-examination to page 748?

5 DR YOUNG: Just before I do that, may I ask, you have just referred to file, volume three, in my, what I heard was that this is, these are documents that I submitted to the Commission. I just want to find out if  
10 that is correct?

ADV KUPER: Yes.

DR YOUNG: Okay. Well, that is a little bit more than a, yes. What I have now got is two, I have got file three, which is my evidence. But, I have also been handed, by the Department of Defence's legal team,  
15 another volume three of cross-examination documents. I see that it seems to have a lot of documents, which looks like the defence review. I just want to find out if this is one of the documents that I submitted, or not?

ADV KUPER: I am referring you, in the cross-examination file, to file  
20 four.

DR YOUNG: That is not what I am asking you. What I am asking you is, whether this volume three, which has just been handed to me, is a document, which I submitted or not. It is a simple question and I require a simple answer.

25 ADV KUPER: You are not in a position to cross-examine me, or to put

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questions to me, as the Commission has pointed out to you, previously.

Now, let us get on ...[intervene]

DR YOUNG: No. I will not carry on. I am now being confronted for the, with another bundle of cross-examination documents. It has just  
5 been handed to me now. I am pretty sure that this document here has been handed to me for a purpose. Like the other three, it has been handed to me late. I am not aware of this document, as far as I can remember and I need to know how to deal with it. If I am going to be cross-examined on this document, then I need to know, first of all, did I  
10 submit this document and if not, I would ask, request the Commission, to give me adequate time to review this document, before I get cross-examined on it.

ADV KUPER: I am not cross-examining you, at this moment, on any document in file three of the cross-examination bundle. What I would  
15 like you to do is open up file four of the cross-examination bundle, to page 748.

DR YOUNG: Okay. We will cross that particular hurdle, when we get to it. But, in general, I do not appreciate cross-examination by ambush. I think this is the fourth ambush that I am enduring, in the last three  
20 days.

ADV KUPER: You have repeatedly spoken of ambush. May I inform you, for what it is worth, that a witness is not entitled to be in pre-cognised, as to documents that will be used, in cross-examination? The reason for that, Dr Young, is because a witness might then tailor his  
25 evidence, whereas, if he is not aware of the documents that will be put

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before him, he might actually try and tell the truth. That is the philosophy underlying the position. You have no such right and will I, please stop pretending that you do?

DR YOUNG: My understanding is that these are inquisitorial cross-examination. I do not believe that it is fair, under those, if those are the 5 rules, to be treated as, in an adversarial manner, which is clearly what is happening now.

CHAIRPERSON: Dr Young, maybe, let us just proceed with your cross-examination. The question of legal issues, you leave that to us. 10 We will decide. If at all, I think, you know, the cross-examiner is being unfair to you, I will interrupt.

DR YOUNG: I think, it is my right to, at least, point that out.

CHAIRPERSON: Thank you. You have pointed out. Let us continue with the cross-examination then.

15 DR YOUNG: Alright. You can take me to, I remember ...[intervene]

ADV KUPER: Page 748.

DR YOUNG: I have it in front of me.

ADV KUPER: Now, that is a depiction of the databus system, in the context of performance risk. What it seeks to do is to show the inter 20 relationship, as I understand it, between all the constituent components of the combat management system, with the combat system databus and with the, what is called here, the sensors, the eyes and the ears. Is that right?

DR YOUNG: Well, that is what this diagram seems to suggest, yes.

25 ADV KUPER: I, I do not know how to describe it, but to point to the,

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what might be called the trunk in red, which in the form a rectangle or  
and which encloses the combat management system brain, the yellow  
diagram and which red system connects both to the blue and to the  
green systems. I am interested in that red, connecting system, which I  
5 have called the trunk. Is that in fact, what you describe as the IMS?

DR YOUNG: Certainly not.

ADV KUPER: Then please identify, on this diagram, the IMS?

DR YOUNG: The IMS is to connect the combat suite. This clearly,  
even for a lay person, only connects the combat management system.  
10 This so-called IMS is not the IMS, with a proper noun that I was  
developing. This is the combat management system databus and not  
the combat suite databus. There is a very, very important difference, as  
subtle as that may sound.

ADV KUPER: Well, before we get on to that subtle difference, will you  
15 just point out that part of the diagram, which represents the IMS?

DR YOUNG: Well, this diagram is simplistic. It is not accurate. It is  
certainly not for the purposes, as it is being used now. I do not want to  
be over technical. But, if one shrunk that red rectangular line, what we  
would call a ring bus or a ring main, if you shrunk it and you put it inside  
20 the combat management system block, then that would more accurately  
describe the way that the current frigate combat system is connected  
and, okay. This gives the impression that the bus, I will not call it the  
IMS is outside of that and that is not true. That is one, what, that is one  
very, very fundamental thing to both my overall themes and thesis,  
25 including the one of risk. The second one is that this thing is also

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missing very fundamental blocks that we did discuss them, a couple of weeks ago. But, we have got, and that is kind of technical detail. They are called system interface units or SIFUS and none of these so-called colloquially speaking ears and ears and, eyes and ears and feet are  
5 actually directly connected to the, well, either to the bus or to the combat management system. They are all connected, via special boxes, physical boxes and different types of inter-connectivity technology, called, okay, it is actually called RS 442. But, anyway, what I am saying, for the purposes of this discussion, this diagram is certainly inadequate  
10 and actually incorrect.

ADV KUPER: Well, since you do not know the purpose of the discussion, perhaps you are being premature. But, if you do not like the diagram, at 748, do you prefer the one at 750?

DR YOUNG: Rather let me give a, you know, you make a statement.  
15 Rather let me respond to that. Yes. I do know what the context of the question is, because you stated that, right at the beginning and that was to do with risk. So, there, in fact, this diagram even has something to do with risk in the top. So, I know exactly what, what the relevance of, of this diagram, in the context of your questioning is. It is to do with risk.  
20 As I clearly stated that in the context of risk, the accuracy or the inaccuracy of this diagram is relevant. It may even be critical.

ADV KUPER: Dr Young, would you prefer, for you and I to use page 750, rather than 748?

DR YOUNG: Now, this is exactly, where my eye sight has a serious  
25 problem. There is a small diagram. It is printed in, in portrait mode. It

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is extremely difficult to see, especially in this light. So, if you want me to say, yes or no. Then I need to go outside and look at this in the bright light of sunlight. I think, that is all I can say. This diagram is ...[intervene]

5 **ADV KUPER:** Will you open up file three then?

**DR YOUNG:** Okay. If I may, it might be easier for me, to find that document on my computer screen. Then I can look at that diagram in landscape mode and make it as big and small as I like. Would I be allowed to do that?

10 **ADV KUPER:** Do anything that will allow us to continue with this evidence, Dr Young.

**DR YOUNG:** I am sorry, I cannot continue on the diagram that you have just referred me to. You see, I can find that document quite quickly, but it is not the second page, after the cover page and I have to  
15 find that particular diagram, as well. Okay. I would be happy to and prefer that you use the diagram on page 750.

**ADV KUPER:** That is 750 of volume 4 of the cross-examination bundle. Is that right?

**DR YOUNG:** That is the one you just referred me to. You offered me  
20 either 748 or 750 and I chose 750.

**ADV KUPER:** It is really not worth, getting into a dispute about. Once we have got a diagram that you are ready to use, would you indicate, on that diagram please, where the IMS is, so that we can get some layman picture of its role, in regard to the combat suite, as such?

25 **DR YOUNG:** Okay. The very first thing, but the most important thing,

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you read, right in the middle there, it says dual redundant FDDI databus. That does not appear on the diagram at 748. That is the fundamental difference. The second one is that you will, the big yellow block on the diagram at 748 is the combat management system, the brain. That is

5 inside the so-called bus. It is not on the outside. I mean, anybody with eyes can see that. The other, okay, the next most important thing, if one looks up, upwards, on the diagram at 750, if we look at the title, it says block diagram. If we go straight down there, we see radar segment. If we go slightly to the right, we see, what looks like something, CIA nav

10 segment. But, anyway, part of that is the combat management system. Okay. That is in quite a different place, to the diagram on page 748. The import of that is the IMS was designed to be at the Armscor and the Navy's specific request, to be at level four, or a combat suite local area network, where the combat management system was an equal, what we

15 call in this context a peer of all the other subsystems. Okay. That is in line with a direct request, I remember, from, at that stage, the combat system engineer, Lieutenant Commander Jacques Pienaar and Pierre Meiring is that we design something, according to a horizontally integrated system architecture. This diagram, at 750 does precisely

20 that. The IMS, which is depicted in 750, is nothing like the one in the diagram at 748, where the combat management system now assumes the central role. All of the subsystems communicate, not as peers, but as, but as subservients to the combat management system. In layman's speak, if one level three system wants to send a message to another

25 one, it can only do so, at the instigation and actually, with the digital

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permission of the combat management system, which is completely unlike the one at page 750, where all of those subsystems are peers.

ADV KUPER: The only question that I put to you, at this stage, was once you had found a diagram that you were prepared to use, having  
5 rejected the one that I suggested. Would you, once you had found that diagram, please point out, where we find the IMS?

DR YOUNG: Well, I think, I have just done that. I have said, you cannot see the IMS, as a proper noun in the diagram at 748. That is the, what became the Detexis Diserta databus. That is not the IMS.  
10 The IMS is depicted in the diagram, at 750.

ADV KUPER: You have now gone to 750. Now, just point out where we find it.

DR YOUNG: Well, for the third time, it is in the middle there, reflected by those two dark circles.

15 ADV KUPER: And the IMS is a level two component?

DR YOUNG: In the IMS diagram, at 750 it is actually a level three. Whereas in the diagram at 748, it would, it would indeed be a level two, because it is a subset, a subsystem of the combat management system.

ADV KUPER: Now, having found a diagram that you are prepared to  
20 work with, and having had you actually identify the IMS, would you agree, would you say that it is vital and essential, if the combat suite is to operate properly or at all, that the IMS functioned correctly?

DR YOUNG: That is true.

ADV KUPER: It is not, as I understand it, anything like the most costly  
25 component in a combat suite. But, it is a fundamental component in a

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combat suite.

DR YOUNG: That is correct. Yes.

ADV KUPER: It follows, as a matter, as I understand it of absolute clarity that the proper functioning of the IMS and its integration into the  
5 combat suite, as a whole, is there for an essential element, for the working of the combat suite.

DR YOUNG: That is correct. Yes.

ADV KUPER: And it is C Square I Square that was bidding, to provide that vital component, in the combat suite.

10 DR YOUNG: That is correct. Yes.

ADV KUPER: And it therefore, was necessary that any supplier of the larger contractual performance, that is to say, any supplier of the combat suite, or indeed, any supplier of the vessel as such, would be fundamentally concerned that the IMS would work properly and would  
15 function correctly, within the integrated system.

DR YOUNG: Yes.

ADV KUPER: So, that, when you talk, or when we talk about the risk, which may be attached to the IMS, in the context of the combat suite and the vessel as a whole, we are all agreed that it is of fundamental  
20 importance that that component functioned correctly.

DR YOUNG: Yes. That is correct.

ADV KUPER: Functioned reliably.

DR YOUNG: Yes.

ADV KUPER: So, the basis of your criticism, about what was going to  
25 happen and you became de-selected, how C Square I Square became

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de-selected, in all of that debate, you agree entirely that the question of risk, in regard to the IMS was a legitimate question that should have concerned every higher contractor, whose work was going to be involved, or would have to include the reliance on the IMS.

5 DR YOUNG: Well, in general, yes. But, as I have said, this is not just a simple matter of yes or no, or black and white with risk. I would say, if the concerns were legitimate, yes. But, as I have testified before, is that the so-called position that was taken, I do not believe was bona fide.

ADV KUPER: You are jumping to the end of the debate. I am not  
10 there yet. I am just establishing at the outset of the debate that we are all in agreement, concerning the risk feature, the risk component, which is attached to the IMS, even though it is not a costly component comparatively in the combat suite.

DR YOUNG: You see, again, it is not just a simple matter of yes or  
15 no, because there is not just the cost, you referred to the cost aspect of it. But there is also the time aspect of it. The cost aspect of it normally comes up front. Okay. But there is also the long term risk of the 30 year life of the vessel or the 15 year, possible life of the combat suite. This architecture and this design around the IMS is more, to alleviate  
20 the long term risks, rather than only address the short term integration risk, or initial integration risk and cost risk. So, the whole issue of risk is not a simplistic one.

ADV KUPER: I completely agree. There are various elements in the  
25 risk picture and they, all of them have very serious considerations in judging the award of a tender to a particular supplier. Do they not?

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DR YOUNG: That is correct. Yes.

ADV KUPER: Now, I want to move on to the question of stage of development, of the IMS. At the time that you say you became a nominated or candidate supplier of the IMS, in regard to the combat suite, had the IMS reached a stage, where it had performed in ordinary working conditions on any vessel?

DR YOUNG: No. It had not.

ADV KUPER: What was the phase of the development, in which it was?

10 DR YOUNG: Well, in time terms, it was then around, going into about six years of development with, I think, there was as many as eight people, working on, on this project. It had reached, okay, in terms of the review methodology, it had been formally accepted, at the level three. That is the IMS design review number three, in American terms, the normal term is the critical design review. It is the equivalent of that. It would have been formally base lined, in terms of all of its specifications and its design documents. It was accepted at the higher level design review, design review three, four, the level four. So, there was no, at the level four review of the combat suite and the risk, relating to the combat suite, it has also been accepted, without any observation of any risk whatsoever, at that stage. In terms of actual development, the typical methodology is to show, show development in things, called a various concept, or a, demonstration models. This thing had reached, effectively, because it is based on commercial, off the shelf equipment, it had reached the pre-engineering development model. Or I could say,

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even the engineering development model, which precedes formal production. There was no reason to go any further than that. But, in terms of the software and the functionality, you will see, in the terminology, in some of the Navy report and the IMS's milestone, 5 milestone three, specifically, and we were approaching milestone four. At this stage, we were in milestone three, or maybe, in 1997, just prior to that. Certainly, by the time we were de-selected, we had reached milestone three, where we could demonstrate, not just demonstrate informally, but formally, with Armscor, ADS quality managers, software 10 engineers, Navy, Lieutenant Commander Kotze was there, with clipboards for a week, doing multitude batteries of tests. I am talking about literally hundreds and hundreds of different tests, multiple times. They are all documented. They are all discovered documents, in terms of the, the test reports. We were not far away from milestone four, 15 certainly less than the year, in 1998, or early 1999. Milestone four would have basically been every single function. We divide our functions into criticalities, critical, major and minor. We had certainly demonstrated and qualified all of the critical functions, all of the functions that you are talking about, relating to risk. We had 20 demonstrated, actually, formally qualified for this, for at least, for this pre-Sitron contract. We had been formally done. The, some of the minor ones, sorry, some of the major ones, I am talking about a very small handful and some of the minor ones, would have been done at milestone four. So, after six years of development, we were certainly 25 less than 18 months away, from full and final development, with only,

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sort of mass production and physical integration that needed to be done.

So, we were pretty, pretty close to the end here.

ADV KUPER: Dr Young, you will try and remember the repeated requests that you answer the questions. Will you answer this question?

5 Was the IMS in a pre-production phase?

DR YOUNG: Well, effectively, yes. I mean, there was not such a formal phase defined, either in SUVECS or Sitron. But, what I can say is that no physical production still needed to be done, on the IMS. So, to all intents and purposes, it was in a pre-production phase, or a similar  
10 phase. Normally pre-production is when there is mass production. This would have only involved four frigates. Typically, they refer to the phase as an engineering development model. We were certainly at an engineering development model phase.

ADV KUPER: Which was pre-production.

15 DR YOUNG: It was either slightly pre pre-production, or in, for a small low volume rate, or low volume, they typically are equivalent or the same.

ADV KUPER: You speak of milestone three. That was a milestone that a milestone that was set, under the SUVECS Project, was it not?

20 DR YOUNG: That is correct.

ADV KUPER: And under that project and dealing with the development of this technology, there were certain milestones, which would be reached, in accordance with pre-arranged time scales and which would be indicative of the further development of this particular  
25 IMS system.

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DR YOUNG: Well, I do not think that the definition of milestones was restricted only, to SUVECS. It was for the development of the IMS. From what I remember is under SUVECS, we would have only been paid for an achieved milestone three. I think, from what I can remember, 5 milestone four, was, would have been intended to be done in the initial phases of Project Sitron.

ADV KUPER: And what Project SUVECS was doing, with its milestones was setting out the qualifications of a technology demonstrator.

10 DR YOUNG: That is not correct. From my understanding, I have seen that use of that term, by various people in these documents and in this Commission. I think Chippy Shaik is one. But, certainly, it was not my understanding that what we were doing, the IMS was purely for a technology demonstrator. I have searched for that term before, and I 15 have never seen project definitions at the IMS level or contractual documents that restricted only to a technology demonstrator. It was the development of an IMS for a Naval surface vessel.

ADV KUPER: I want to contrast the situation of milestone three, under SUVECS, to which I will return just now. With the milestones, if I may 20 use that word, which would have to be achieved under the contract for the supply of the IMS, under this project. I would like you please, to turn to file three. Those of the documents discovered by you and in file three, to move to page 687.

DR YOUNG: Yes. I think, I have got that page.

25 ADV KUPER: And just, to avoid misunderstandings, you will see that

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page, is part of a long document, which is RMY 29 and which starts at page 634 and is the requirement specification for the Corvette combat suite.

DR YOUNG: Yes. Well, specifically, this is a red line and struck out version. So, it is just a version thereof.

ADV KUPER: I do not think anything will turn on it, being crossed out. So, I am not going to take you to a cleaned up version. We can stay with this, in order to get on. What I am interested in is that if you look at page 687, you will see the kind of tests that this component and other equipment would have to undergo, before it could be fit for the vessel. The first of those tests, or the first of those stages would be, what is called a factory acceptance trial. Would you just explain to the Commissioners what is involved, briefly, in a factory acceptance trial?

DR YOUNG: Yes. It is a set of formal tests, in one's own facilities, using one's own hardware, almost invariably, with the buyer and the end user, or their specific technical representatives. In this case it would have been both, you know ADS and Armscor and the end user, being the Navy or the DoD. So, that is what it is and what I can say is the test that I have just referred to, under milestone three and coming, would very typically, have been those, or as part of that set of factory acceptance trials.

ADV KUPER: Well, let me put this to you formally, are you saying that the IMS had been subjected and had passed its factory acceptance trials?

DR YOUNG: Well, again, this thing does not just happen in one hour

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or even one day. It is spread over a while. Once you have formal tests of this nature that are documented and accepted, then one does not have to repeat, either all of them or to the same intensity. They basically get accepted and you, it is an iterative thing, where you do  
5 certain tests. There might be say, three failures out of a 100, or whatever it is. Then, you repeat that six month or a year later, or whatever it is and you do not have to repeat all 100. So, I would say, at least, technically speaking, maybe not contractually speaking, but technically speaking, we had already started doing those tests.

10 ADV KUPER: I am talking about contractual requirements. I am not going to debate with you, your interpretation of some other set of requirements. I will put the question in that light again. Is it your statement that contractually, the IMS had passed its factory acceptance trials?

15 DR YOUNG: You have [indistinct] the question slightly differently, having passed them, I think, before, well, anyway, what I was saying is that we certainly commenced them towards. But, if you put it as passed them, in the Project Sitron context, the answer is, no.

ADV KUPER: When the system or the component, or whatever it may  
20 be, has passed its factory acceptance test, it appears from page 687 that it is then moved on, to be installed in what might be called a stone vessel. Can you just elaborate on that?

DR YOUNG: Yes. Well, the facility is housed in concrete. It is termed the integration test bed. It is part of the whole risk mitigation exercises.  
25 We do not just install it, straight on board a vessel. It goes on board a

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facility, with easy access, through false flooring and all that kind of stuff. Typically, an entire non-vessel type of combat suite, would have been installed in a big room, with maybe other equipment in the next door rooms, in a facility in Simon's Town.

5 ADV KUPER: Is it at that point that the IMS would be connected up, with other components of the combat suite?

DR YOUNG: It certainly would be connected up, to other components. But, that would not necessarily be for the first time and certainly, one of the things that would have been tested in the factory acceptance trial is  
10 emulating or simulating very, many, maybe not all, but all the critical ones, or most of the critical ones, or the time critical ones. One has simulators or emulators that emulate those subsystems and that already would have been done. That is also a major part of the risk mitigation exercise.

15 ADV KUPER: Let us try, please, just to keep to the question and the answer. I know you may think that you know where the next questions are going, but do not try to answer them.

DR YOUNG: I did not know where the next question is coming from. I just answered your question, which was a fairly simple one and it  
20 required a slightly, a slightly more elaborate answer.

ADV KUPER: And of course, the IMS had not yet got as far as any integration test bed testing.

DR YOUNG: Well, not the integration test bed in Simon's Town. But, the generic term integration test bed, our own facility is indeed, an  
25 integration test bed. Because of course, the integration test bed did not

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exist. So, we had, from an IMS point of view, to all intents and purposes created our own.

ADV KUPER: Again, I am talking contractual. I am not talking about your parallel vision of what was to happen ...[intervene]

5 DR YOUNG: But, you see, unfortunately, in that case, then the questions are not all that sensical, because how could these things have possibly existed, when the contract had not even been initiated. These things are all post contractual things.

ADV KUPER: Yes. Of course. Of course, Dr Young. And after a  
10 successful testing of the IMS or any other component, at the integration test bed stage, which would have been in Simon's Town at the SA Naval dock yard, the system, now I take it, in its integrated form, would be installed as it were, at the dock yard, on the vessel. Is that right?

DR YOUNG: That is correct. Yes.

15 ADV KUPER: Where it would be tested and accepted, again. Would it not?

DR YOUNG: Yes. That is called harbour acceptance trials.

ADV KUPER: But, even the harbour acceptance trial, which follows the test bed trial, which follows the factory acceptance trial, is not itself,  
20 the end of the road. Because thereafter, the vessel must be tested at sea, must it not?

DR YOUNG: Indeed it must.

ADV KUPER: That further test is then required and must be passed, before the vessel could be delivered, in its deliverable state.

25 DR YOUNG: That is correct. Yes.

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ADV KUPER: So, the Commission will understand, there was four contractual steps, that would have to be met, by any component, including the IMS, between the time of the grant of the contract and the time of delivery of the vessel.

5 DR YOUNG: Well, I think, we referred to. Yes. Well, okay, I accept that.

ADV KUPER: And of course, as you have so kindly pointed out, none of this had yet happened in the sense that, prior to the contract being granted, being awarded, none of these tests, which were contractually  
10 imposed would have come about, yet.

DR YOUNG: Well, that is not quite true, because, okay, surely the ITB and the HAT's and SAT's tests could not have, but we certainly started doing many factory tests.

ADV KUPER: And here again the tests, I am talking about, starting  
15 with factory acceptance and ending with testing at sea, they were all to be completed, under the contract, within stipulated time periods, were they not?

DR YOUNG: Yes. More or less.

ADV KUPER: And the vessel contractor would be liable contractually,  
20 for a penalty, or damages, if the vessel was not delivered on time.

DR YOUNG: According to the contract, yes.

ADV KUPER: So that in that context, the supplier of the vessel was on risk, not only for timeless performance, by itself, but also on risk for timeless performance, by all others, lower down in the contractual and  
25 sub-contractual and sub sub-contractual levels.

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DR YOUNG: Well, not in the case of what became the part, the part C combat suite contractors.

ADV KUPER: Leave out part C. I am going to come and deal with C. But, the proposition I put to you is generally then, a correct one.

5 DR YOUNG: Generally so, yes.

ADV KUPER: And one would expect that just as the contractor for the vessel bore a risk, in regard to performance, by those underneath it, so too, the contractor for the combat suite, would owe obligations of timeless performance, not only by itself, but by those, who were sub-  
10 contracted or sub sub-contracted to it. Is that not right?

DR YOUNG: Yes.

ADV KUPER: And it was just one of the realities of life that if anything went wrong with what I have called the IMS, that might have a repercussive consequence, right up the chain and prevent, either the  
15 timorous delivery of the vessel, or indeed, thereafter, the adequate performance of the vessel.

DR YOUNG: Generally, yes.

ADV KUPER: And of course, in that situation, it is manifestly important, contractually, to know who bears the risk and what exactly the  
20 risk is that each bears.

DR YOUNG: Well, I like your term, exactly, yes. Generally speaking, it would be correct, to quantify the risks in the different categories at the different levels of risk.

ADV KUPER: And there would be, in this particular case, four, I think,  
25 four relevant players, whom the Commission should keep in mind, as to

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apportionment of risk. There would be, in the first place, the customer, in the second place, the vessel contractor, in the third place, the combat suite contractor and in the fourth place, the individual component, or system supplier to the combat suite contractor.

5 DR YOUNG: That is correct. Yes.

ADV KUPER: And what the Commission would expect to see, would be both negotiation and agreement, regarding the apportionment of risk, between those four potential players.

DR YOUNG: Absolutely correct.

10 ADV KUPER: Sorry, Chairman, just bear with me. I am going to pick up the story at a, at a certain stage in the history of the matter. Would you turn to volume 4 of the cross-examination bundle, which you have before you, at page 754?

DR YOUNG: Sorry, could you just give me a moment here. Sorry,  
15 about that, could you just refer me to the page in the file?

ADV KUPER: Page 754 in volume 4 of the cross-examination.

DR YOUNG: I think I have the correct thing. It is a diagram.

ADV KUPER: I am trying to find, what was called, in your evidence,  
CS 7. I am not sure, whether what I am showing you, is CS 7 or CS 6.  
20 Because the printing is, I am afraid not good enough for my eyes. It is  
your document RMY 30.

DR YOUNG: Yes. But, it is not my photo copying.

CHAIRPERSON: I am sorry, Dr Young. Is this your document or not?

DR YOUNG: No. This is an ADS document. It is a document that I  
25 adduced into evidence, but I did not photocopy it.

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ADV KUPER: Okay. Can you say whether it is CS 7, or not?

DR YOUNG: I really cannot.

ADV KUPER: Just bear with us, Chairman, please. I think, we have solved the problem. Would you go to your bundle, file three?

5 DR YOUNG: I think that is where I was.

ADV KUPER: If you go to your bundle, file three and you turn to RMY 31, which you will find at page 887. You will find CS 7.

DR YOUNG: I did not need to go there, because I found it on my computer and I can read that better.

10 CHAIRPERSON: I am sorry. Advocate Kuper, can you tell us which page? Because we do not have the computer that Dr Young is having.

ADV KUPER: Thank you, Chair. Chair, we are in file three of the bundle of Dr Young and we are dealing with RMY 31 at page 887. Now, Dr Young, whether you wish to look at the file, or whether you wish to  
15 look at the computer.

DR YOUNG: I just have to be careful I am looking at the same thing. Okay. Anyway, I have got something on my file and I have got something on my computer.

ADV KUPER: Am I correct, that what you are now looking at is RMY  
20 31? It is the diagram, which you described as the quite elegant solution, which needed to be reached, if the IMS was to be included in the French combat suite system, the Detexis system.

DR YOUNG: It completely confused everybody, including me, because you have been trying to take me to CS 7 and now, I think, you  
25 are referring to CS 7 MOD one.

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ADV KUPER: Dear me. Have you got CS 7 MOD one?

DR YOUNG: Yes. But, only on paper not on my computer.

ADV KUPER: On what page in the paper is it?

DR YOUNG: It is 887.

5 ADV KUPER: Is that the page I asked you to turn to?

DR YOUNG: I was told, ja, I was finding it on my computer. You understood that.

ADV KUPER: Dr Young, we really will get on better and quicker, if you can try and avoid the criticisms that you ...[intervene]

10 DR YOUNG: No. We will get on better and quicker if you [indistinct] confusing us all.

CHAIRPERSON: I am sorry, Dr Young. I am not quite sure, when you, what you mean, when you say that we are all confused. I, can I show you, I am not confused.

15 DR YOUNG: Yes. Because you are only looking at one thing, I am looking at two.

CHAIRPERSON: [Indistinct] you can just keep quiet and allow the cross-examiner to pose is questions. I am sure we will move much faster. Can you try and avoid making some remarks, which are not  
20 relevant to the questions, which are being posed?

DR YOUNG: Excuse me, those were not irrelevant remarks. I was on two different things at the same time. I can see the piece of paper, but I cannot read it. I have said and you accepted that, that I was going to refer to my computer. So, I was in the wrong place there.

25 CHAIRPERSON: Okay. Let us try and avoid making remarks, which

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are not relevant to the questions, which are being posed. I am sure in that, we will be in a position to move much faster. Thank you. You can go ahead, Advocate Kuper.

ADV KUPER: Thank you, Chair. Is it correct that this is, at page 887,  
5 the document that you were describing to the Commission, as the elegant solution, if the IMS were to be integrated with the Detexi or French system, for the combat suite?

DR YOUNG: No. That question does not make any sense to me at all, because you are now talking about an amalgam of the Detexis  
10 system and the IMS. So, as far as I, well, let me rather ask you to just repeat that question, maybe break it up into sub-questions.

ADV KUPER: What is RMY 31 depicting?

DR YOUNG: From what I can remember, is that, at this stage it was the, only the IMS. So, you would be incorrect, to state that it was, it  
15 included the Detexis system. Theoretically speaking, technically, one could have an amalgam. But, that is not what CS 7 MOD one was all about. I am now remembering the ADS requests for quotation. If one remembers the request for supplying the IMS, with 23 nodes and 25.  
Now, if one has sight, I have at least, got a colour version in front of me  
20 and I have got a black and white one. But, the big thing that CS 7 MOD one and its elegance, is the connection between, what I described previously, as the darker part on the left hand side and the lighter part on the right hand side, with a little box. It looks white, on your diagram. It is yellow on mine, called a BIFU, a bridge interface unit. What this  
25 was, was that the IMS would actually be split into two. But, two, it is still

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the IMS and the IMS, in all intents and purposes, except for its language, it is colloquial layman's talk, if it is language, being spoken on the left hand side, would be a language, called TCPIP. But, that would form the integrating element of the combat management system and  
5 everything to the left. The, what we called the real time part, would be connected, via the same thing, the same technology, the same hardware, same fibre optic cables, but talking a language, called XTP, the express transfer protocol. That bridge interface unit would be, provide the bridge between this, what they call local area network  
10 segments. That is what I said, is the basis of technically, a very elegant solution, not the optimal solution. Because an optimal solution is a single LAN, but it, but, well, overall, but an elegant solution and also contractually, because the CMS part would have, would be more or less, master of its own destiny, having control of all the information and the  
15 timing and everything else that flowed on its segment, without any interference that was happening on the other segment.

ADV KUPER: And after all that time, Dr Young, that is just where I wanted to begin, with an elegant solution, which was being pursued, by the parties, in particular, by ADS, who you will see, at page 888, the next  
20 page, were requesting you, or requesting C Square I Square for a quotation, on the 11<sup>th</sup> of November 1998. Is that right?

DR YOUNG: That is correct, yes. Sure, it is important, okay, my answer might have saved some time and answered that question. But, the most important part, what is said at the beginning is that you were  
25 completely wrong, when you basically were indicating that the left hand

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side was the Detexis databus, where it was actually indeed, part of the IMS.

ADV KUPER: May we continue with RMY 32, the request for the quotation of the 11<sup>th</sup> of November. I see that there are a number of  
5 points, made by ADS, which are relevant to this question of integration. They say, in subparagraph 2 that the commercial proposal, which you ought to supply by the 27<sup>th</sup>, should be supported by a subsystem specification, establishing the integrated performance of your subsystem, where applicable. Then, again, in Roman four the  
10 subsystem platform interface information must be supplied, by a certain date. Sub six, for the purpose of this exercise you are to base your quotation on your role as a subcontractor, to the prime contractor, who will assume the responsibility, for combat suite integration. As such, you are expected to assume the full responsibility, only for those elements,  
15 included, within the boundary of your subsystem, up to stand alone subsystem integration, where applicable. Detailed terms and conditions, other than those implicit, in the attached request for a quotation, will be determined, through negotiations. These, points made, in the request and particularly the last one that I have just read, address, at this stage,  
20 the question of risk, in so far as they impact on C Square I Square. Is that right?

DR YOUNG: It would seem so, yes.

ADV KUPER: And just finally, the seventh point, if your subsystem involves customer furnished equipment, CFE, it should be assumed that  
25 the CFE supplier, has the same obligations, as any other supplier or

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subcontractor, i.e. that required time scales will be met, that the CFE is fully functional and supported by the supplier and that installation and interfacing data is available, from the supplier. Did your subsystem involve CFE?

5 DR YOUNG: I cannot remember, Sir.

ADV KUPER: Perhaps you might think about it and when you remember, let us know.

DR YOUNG: No. I prefer that you point it out to me and offer, which is, or allow me to find that now.

10 ADV KUPER: Again, Dr Young, I am cross-examining, not you. Will you turn to page 890? Have you got it?

DR YOUNG: No. I have not.

ADV KUPER: Dr Young, you are looking for page 890, of volume ...[intervene]

15 DR YOUNG: Yes. I have that.

ADV KUPER: You will see, this is the, these are the conditions, which attached to the request for the quotation.

DR YOUNG: No. Sorry, we are looking at, I am looking at the wrong. You said 819, which I have. It must be in another file. Oh. Did you say  
20 890 or 819?

ADV KUPER: I said eight, nine, zero.

DR YOUNG: Sorry, I got that wrong. Okay. I have that.

ADV KUPER: I am interested in the warranty obligation that was being imposed, by this quotation. That was a warranty, 36 months after FAT  
25 for the ITB fit. If you translate that into layman's language, what would it

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be saying?

DR YOUNG: Well, there are four different subsystems. So, the first one would have been destined for the ITB. So, that is the ITB fit. So, once one is ready to do the factory acceptance, complete the factory  
5 acceptance trial for that first system, the warranty starts from then.

ADV KUPER: And the second warranty is 12 months after the SAT, with a maximum of 24 months, after FAT for shipsets 1, 2, 3 and 4.

DR YOUNG: That, in layman's terms is, after factory, sorry, after sea acceptance trials, for each shipset for each vessel, a period of 12  
10 months, at least 12 months, but limited to a maximum of 24 months.

ADV KUPER: At page 892, we deal with further requirements imposed by ADS, in regard to the integrated subsystem and what that was to, how that was to be identified.

DR YOUNG: I have that.

15 ADV KUPER: At page 893, we see requirements which have to do with ITB activities and with on board activities as well and involve verifications and I take it testing.

DR YOUNG: Well, in my, I only said I have that. I never provided an answer, because you would like to ask me a question, regarding the  
20 subsystem definition. I think it is important.

ADV KUPER: But, I have asked you a question, which you ignored.

DR YOUNG: No. You [indistinct] I just said that I got the right page. Then, you went onto the next page. So, I would like to, either say something or answer a question, regarding page 892.

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ADV KUPER: I want to make the comment to you, comment to you, Dr Young that you are being, this morning deliberately obstructive and trying to interrupt the progress of cross-examination. I make that comment to you, because it is something that we will submit to the  
5 Commissioners, in due course, concerning the tender of your evidence. Now, do you say you want to make some comment?

DR YOUNG: Well, I just want, I was taken specifically to a page, which I then found and I said that I have got a page and then you turned over me to the next page. So, I am not trying to, I am just also trying to  
10 give cogent, coherent responses and evidence, in form of cross-examination. But, I cannot understand why I should just be taken to a page, merely to be open to the next page. That is the point I am trying to make. I am not trying to, to be obstructive in the slightest.

ADV KUPER: Do you have page 892 in front of you?

15 DR YOUNG: Yes. I do.

ADV KUPER: Does page 892 in dealing with the scope of supply, indicate to you, the nature of the integrated sub-system, which is required, to be supplied?

DR YOUNG: Yes.

20 ADV KUPER: Will you go to page 893?

DR YOUNG: I have that.

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ADV KUPER: Do the requirements at page 893, under the headings ITB activities and onboard activities indicate to you, the obligations that will be involved, in meeting various testing and verification exercises?

DR YOUNG: Yes, they do.

5 ADV KUPER: And does it point out to you that in addition, there are going to be obligations, relating to technical support?

DR YOUNG: That is correct.

ADV KUPER: And you were prepared, or your company was prepared, to respond positively, to this quotation, by, by submitting a quotation, for  
10 consideration, by ADS. Is that correct?

DR YOUNG: That is correct. Yes.

ADV KUPER: And if we turn to page 897, we see the quotation.

DR YOUNG: Yes. I have that.

ADV KUPER: The quotation, which runs for some pages, refers to  
15 various documents and the like, which are to be incorporated, within it. What I would like to know is would you tell us, what the response in this quotation is, to the risk descriptions that you had in the request for quotation? By that, I mean, where C Squared I Squared prepared to accept the risk obligations, set out in the request for a quotation.

20 DR YOUNG: Yes. We were.

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ADV KUPER: Was C Squared I Squared prepared to accept the time limits and factors that were imposed in the request for the quotation?

DR YOUNG: Well, you know, I have not seen this document. I cannot see any disclaimers thereto. But, certainly from memory, the answer is,  
5 yes.

ADV KUPER: Indeed, if we turn to page 905, we see, in terms of this quotation, various mention of dates, being the contract start date, contract award date, the contract end date and the delivery base. All of which is intended to put C Square I Square, as it were, on terms, as to  
10 performance dates, for delivery.

DR YOUNG: As far as I can remember, that is absolutely correct. You know, we were accepting, you know, all of the stipulated and directly stipulated and, you know, known conditions.

ADV KUPER: And at pages 906 and 907, there is an elaborate set out,  
15 of the way in which tests would be passed and accepted and what would be involved, in all of these various testing that is referred to here, under task acceptance criteria.

DR YOUNG: Yes, indeed. That is why I refer to, you know, the applicable documents set out what these are. So, this is conforming to  
20 the overall, the overall requirements of the request for offer.

ADV KUPER: And just to cover another aspect, if we turn to page 912, we will see the quotation, which as I understand is for R43 090 000.00.

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DR YOUNG: That is correct. Yes.

ADV KUPER: And this was not the original price, which had been quoted. So that, at page 913, there are the reasons given, for why the price had been increased, the quoted price.

5 DR YOUNG: That is correct. Yes.

ADV KUPER: The first reason, as I understand it, had to do with budgeting for half of what is called the ITB fit that has changed. The second matter is that concentrators are required for the test bed, which was not budgeted for. The third is that there is an extra five years' support, which came about, because of your interpretation of the new warranty requirements of 24 months, after ship system four, whereas previously, you were only asked to support for two years, after the ITB. This meant what we budgeted for support licenses for our compilers and protocol software for an extra five years.

15 DR YOUNG: That is correct.

ADV KUPER: Now, at the same time as you were quoting for this particular element in the combat suite, so too, although not at exactly the same time, the Navy was receiving the quotations, the offers from B&V, or from the combat vessel consortium and was having difficulties, with accepting the price. Did you know anything about that, at the time?

DR YOUNG: Well, the time of course, is critically important. This is December 1998 and as far as I know, the only, the first responses back

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to the buyer, or I would say the Joint Project Team came substantially later than that. My awareness of problems with price was probably only maybe in February or March, April, that kind of time frame, but three, two, three, four months after this, after December 1998.

5 ADV KUPER: You came to know that there were pricing difficulties, that is between the Navy and the would be vessel supplier.

DR YOUNG: Ja. I am just trying to think back if, you know, I do not think, of course, this would not have been communicated with us, in writing. But, it is my intuitive feeling that based on what I was hearing  
10 and not what I was reading and I am also trying to differentiate between what I know now, and what I knew then. That is the difficulty. But, certainly, only later, it became apparent that there were difficulties in the pricing. But then, you know, as far as I know, at this particular stage of that 15<sup>th</sup> of December, request for quotation, there were no difficulties  
15 with pricing.

ADV KUPER: As a matter of interest and it is not worth my while, to stop and debate it with you, but the evidence is that the price shock, which the Navy had received, it received in January 1999.

DR YOUNG: Well, absolutely, exactly. That RFQ from ADS, I think,  
20 came in middle of December. So, there is no way we could have known that there was any price problem. The price shock only came a month later. Of course, we would not have known about that, straight away.

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ADV KUPER: Yes. I am just putting background against, which we can continue to discuss the matter. Do you know and if you do not and you did not have knowledge, please say so, did you know, how the negotiating parties, then went about trying to reach a price that was  
5 acceptable to both parties?

DR YOUNG: Yes. Not in, of course, in as much detail as I know now and crossing my mind back to what I knew then, of course, there were requests for offer and there were requests for best and final offer. Some of that information got fed back down from ADS to ourselves. Of course,  
10 there was the letter of the, I think, it is towards the end of March, 26<sup>th</sup> of March. There is more information on the 5<sup>th</sup> of May. So, I certainly became aware, over at least, the next five months, January to May, by the fact that we were asking for quotations and there were design to cost measures, et cetera, that there had to be problems with pricing.

15 ADV KUPER: Did you know, at the time that the direction that the talks then took, in order to accommodate the possibility of an agreed negotiated price, that the direction was in connection with a possible different apportionment of risk?

DR YOUNG: No. I do not think that I knew the details of that, at that  
20 time.

ADV KUPER: What the evidence of those, who were involved in the discussion, before this Commission has dealt with, is the suggestion, by the contractor, that the South African government should bear the risk,

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in some degree, in some defying degree. That was, at that time, on the shoulders of the vessel supplier and that, if only the South African government would take a portion of the risk, it would be possible to reduce the price, at which the vessel contractor was prepared to supply  
5 the vessel. Did you know anything about that?

DR YOUNG: Not at that time. It was not shared with us. The whole issue of risk was not an issue for us. It was not asked of us. Certainly, to provide any kind of specific provision for risk, I do not think there was any feedback that, of that nature. I am only aware of that now. Well, let  
10 us say, five or 10 years later. I do not think I was, I knew of it, at that time.

ADV KUPER: And once the discussions, of which you were unaware, had begun to address the question of a re-apportionment of risk, or the possible re-apportionment of risk. You understand, of course, that one  
15 of the questions, in regard to risk, would be, who would bear the risk, for the combat suite and within the combat suite, the IMS.

DR YOUNG: Well, that is intuitively obvious, yes.

ADV KUPER: Did there not come a time, when the impact of those discussions, impacted on C Squared I Squared and it became involved  
20 in the question of the redistribution or the undertaking of risk, in regard to the IMS. Was C Square I Square ever asked to be involved in these discussions?

DR YOUNG: No.

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ADV KUPER: Are you sure of that?

DR YOUNG: Yes.

ADV KUPER: Did you not engage in correspondence with ADS, regarding the question of risk and your appreciation of how complex and  
5 difficult that question was, in so far as it impacted on the IMS?

DR YOUNG: Only in June. I was now talking about, up until the, I just said the January to May time frame.

ADV KUPER: Well, I was not confining my question. But, it does not matter. By June, you say, IMS and yourself had become involved in the  
10 risk question and the risk discussion.

DR YOUNG: Yes. And specifically, I think, I now remember the specific letter. The risk, at that stage came about, because of changes in the architecture and I addressed that. But, I will state, or rather I will say that if we were stuck with the base line, is that there was no impact  
15 of, on us of risk.

MR KUPER: I am just interested in having your confirmation that at least by June as you say C-Squid I-Squid had become engaged in the debate and the negotiations about risks?

DR YOUNG: Yes by that stage there was changes of architecture and  
20 that precipitated the changes of risk. We have just been talking about the context is, which is important. The request for offer of December 1998. The baseline and that is why I wanted to make the point which he

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took so negatively against me when I was talking about the defined baseline. The description of the required system which was the IMS according to the specific CS7 (Mod1) according to that baseline there was no risk. Things changes after this phase.

5 CHAIRPERSON: Advocate Kuper will this be an appropriate time to take the tea adjournment and then you can raise your further points.

MR KUPER: As you please.

CHAIRPERSON: Let us take an adjournment for 15 minutes. Thank you.

10

**COMMISSION ADJOURNS**

**COMMISSION RESUMES**

RICHARD MICHAEL MOBERLY YOUNG: (s.u.o.)

MR KUPER: Thank you Chair. Taking up the discussion Dr Young I want to know whether you knew that the quotation or request for  
15 quotation to you was a standard request that went to all the local sub-suppliers for the combat suite. Did you know that?

DR YOUNG: I certainly could have assumed that. I think that, that would be true.

MR KUPER: Did you know that when the other sub-suppliers  
20 responded with a quote they made extensive allowance for risk with the result that their quoted prices went up considerably from what they had been?

DR YOUNG: No I did not know that.

MR KUPER: Looking at your own quotation at 897 but in particular in  
25 the formulation of the price and the reasons for why the price had

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change. Did you make an allowance for the risk that C-Squid I-Squid was going to bear.

DR YOUNG: Not as a separate line items because I did not think that it was necessary. We were so far advanced we had proven all the  
5 criticalities technically wise very few risk remained at that stage. We had been working on it for so long and had basically solved all of the technical problems. The only thing that I needed to address was two things of course.

This change in baseline where I explicitly allowed for that effort and  
10 whatever cost of materials as well as built in you know the way that we do our quotations is extremely comprehensive and complex. Multi sheeted; multi lined and multi columned spreadsheets with each item identified and broken down. In terms of effort, man hours at this stage we did not think that there was any risk whatsoever in the hardware.

15 If little things required attention it would require manpower. For the relevant items there would have been sufficient man hours per items to account for risk.

MR KUPER: So can the Commission then understand, I say I use you and C-Squid I-Squid interchangeably, you had form the firm idea that  
20 there was no real risk attaching to the IMS and hence no real need to allow for risk in your quoted price?

DR YOUNG: Yes that is correct. I think that I also need to say at this point is that we were actual treated quite differently from all the other sub-contractors as you put it, this was generic request for quotation from  
25 ADS. I do know that there was several meetings going on from maybe

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January in that first quarter of 1999 where all the other sub-system level 3 systems were involved in big multiday meeting where this may have been addressed.

We were not invited or involved in any of these. So there was no 5 ways that the issue of dealing or providing expressly for risk was ever brought to our attention.

MR KUPER: Yes I can appreciate that if it had been done, the question of the risk had been drawn to your attention by ADS then it may well have been that your quote would have been much higher because you 10 would have made proper allowance for risk, would you not?

DR YOUNG: Not necessarily much higher. What would have been asked for us to expressly provide for risk. Of course we had always been mindful that we had been asked for cost and risk assessments over the last couple of years at least. We did not want to undermine our 15 credibility in any way by suddenly having unexplained price increases.

So if I was asked explicitly for risk what I would have done is taken the risk provision out of the manpower allocations, added in another column for manpower based risk and then determine a price of that so that it would have been e explicitly in the light if been asked for a line 20 item of risk, I would have done so I very, very much doubt that our own risk or risk because of explicit risk would have increased I doubt more than 15%.

I am not using this in a pejorative way. It seems to me would you agree that the fact that your attention had not be expressly directed to 25 risk plus you believe that there was indeed very low risk had in a sense

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led you to paint yourself in a corner in which you quotation would not allow you to assume risk in any meaningful way because the price that you had offered simply did not allow for it?

DR YOUNG: You see now you are going completely against what I  
5 have just testified under oath. I have said that we allowed for risk within the item by items what we call recourse allocation. So certainly the provision for risk was there. It was just not exposed to ADS as a line item because they never requested it. It they had requested it we would have done so.

10 MR KUPER: Was the risk that was contained in that form adequate if the risk was not to be regarded as a low risk but if it was to be regarded as a substantial risk?

DR YOUNG: Yes, I am now working from memory. Possibly an hour ago when you read out the terms of ADS's request for quotation you  
15 basically said that we had to take responsibility up to, I think the word was standalone system integration. That means that we are only taking risk for the IMS and we can prove the external functionality with simulators.

In fact I cannot remember which document make express allowance  
20 for the use of simulators and emulators. Anyway the clear inference (I am glad you read that out to me) is that we take risk or responsibility for risk at the IMS level only. I can assure you being an expert in the subject I have done it before on a submarine and it was something very similar that the risk of the IMS or in that case the system databus was  
25 very, very much restricted to the sub-system level of the level 3, level.

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Also the other risk that you are talking about clearly ADS stated in their own words, is a risk of their own.

MR KUPER: Yes, thank you Dr Young. If I am understanding you correctly you are saying that in the limited ambit of the risk as set out in  
5 the request for quotation you have very adequately made allowance for such risk in your quotations?

DR YOUNG: I will amplify that for you?

MR KUPER: I do not need you to amplify that I am prepared to accept that.

10 DR YOUNG: Well that is very excellent.

MR KUPER: It follows that if there then became a discussion about increasing the risk which would be attributable to the IMS that you would have been unprotected and you would be able to take up the stand point that any such extension of risk was absolutely unacceptable?

15 DR YOUNG: No, that completely fly in the face of that letter of June to ADS where I said that according to the current baseline that, that would have no impact on risk. What that letter as about was the implications regarding the changes of baseline and there is specifically say that if we have to change the baselines and we now having to do some other  
20 technical work is that this might apply a risk off I cannot quite remember the amount. The way I specified 30% or 15 or 35% I cannot remember but it was a specific amount of risk. I specifically addressed the risk as the risk scenario changed. I very specifically addressed that.

The other point that I can say is that it is also important to remember  
25 that we were so far down the development track, so close to finalisation

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that and the only way that we were able to get there was actually to spend a lot of our resources, mainly effort and manpower. A little bit of hardware money as well. Anyway, what that would have meant is that if we got this contract for R38 or R44 million is a much higher than normal amount would have accrued to us as gross or net profit. We had  
5 already done the work it was not unfair.

So instead of putting that all in our pockets as a kind of a windfall, it is not a windfall I am not ... we have fairly done the work. We were not exposed to financial risk because of bad things that might have  
10 happened. We might have reduced our profits. We might have even broken even but we certainly would not have gone bankrupt belly up and would thereby constituted a risk to ADS.

MR KUPER: Again Dr Young you must please just confine yourself to an answer to the question and not to what you think is the way in which  
15 the cross-examination will unfold and a desire to try and get to the end before I have even started. Am I understanding you correctly. That although the quotation that we have dealt with from C-Squid I-Squid was quotation of a basis of a very limited risk assumption namely that which the request for the quotation had set out. Nonetheless you were in a  
20 position where you had stipulated that if that risk were to changes and expand then obviously you would increase the price. Was that the position?

DR YOUNG: That is the position that I took in mid June.

MR KUPER: Yes very well. Now the upshot of the talks between the  
25 main contractor and indeed ADS and the Navy which dealt with an

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attempt to reach a price did as I say and as you agreed although you knew about it at later stage, raise the question of risk. This discussion ultimately did impact upon you and there were discussions with you about the assessment of risk?

5 DR YOUNG: I certainly cannot remember discussions. I think that my interaction with ADS was a unilateral one from me. I do not even think that I got a response there. I cannot remember discussions about risk in that timeframe.

MR KUPER: I am going to extend the timeframe up to August of that  
10 year. Would your answer remain the same?

DR YOUNG: The issue of risk became wider as you say yes at that much later stage of August is a relevant month.

MR KUPER: Yes. I think all that I need to do is quote you on the subject. If you will turn in this cross-examination file 1 to page 211. Do  
15 you have that?

DR YOUNG: Could you tell me are these the grey ones are the cross-examination files. Could you tell me which file?

MR KUPER: File 1, page 211.

DR YOUNG: Yes I have page 211.

20 MR KUPER: As I understand it, this is a document furnished by you and which is a minute of discussions that you had with your lawyers in terms of which you were explaining to them the picture that had developed by August 1999 and how is impacted on your interests?

DR YOUNG: That is correct.

25 MR KUPER: I want to refer you to paragraph 29 which you will find at

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page 213.

DR YOUNG: Okay I have that.

MR KUPER: There you say that:

*"We understand that ADS is prepared to drop its price for the combat  
5 suite to R2.6 billion. This would be on the basis of not accepting risk for  
a portion of the sub-systems. In other words ADS would drop its price if  
it were released from certain performance guarantees. While the Navy is  
apparently willing to accept this in relation to some of the sub-systems  
the Navy is insisting that the IMS sub-system be guaranteed. This is  
10 because the IMS sub-system is crucial to the whole operation of the  
vessel. It is the nerve system of the combat suite and is a absolutely  
key."*

That is I take is absolutely correct description of what you knew was  
the developing situation at the time and what you knew was the  
15 proposal of ADS and the response of the Navy particularly in regard to  
the IMS?

DR YOUNG: Yes at this late stage, yes.

MR KUPER: You had the understanding and the impression that the  
South African Navy wanted the IMS at this stage, is that not so?

20 DR YOUNG: Not at this stage. It has always been a little bit of mystery  
exactly what stages ended when. In our view the decision effectively  
got made to change from the IMS to the Detexis Diacerto databus  
around about the 24<sup>th</sup> or 26 May 1999 and not in August.

MR KUPER: Well all that I am going to do is refer you to what you,  
25 yourself said. Paragraph 31 in the last sentence.

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*“The Navy had already indicated that it prefers our sub-system to the Detexis System.”*

DR YOUNG: Yes. It had preferred it up until a certain stage. Certainly by August we had been de-selected by then.

5 MR KUPER: So what it appears you knew was that the IMS system had not through any desire of your own but had become a friction point in the price negotiations between ADS and the Navy. The friction point was who would bear the risk of the IMS not meeting performance or time testing standards?

10 DR YOUNG: Well I would not put it quite as simple as that I would say the friction point was making a provision of something like 40 to 50 million extra basically more than doubling the price of the IMS. That was the friction point.

MR KUPER: That was the friction point as far as you were concerned  
15 because you regarded that as an unfair increase for risk, did you not?

DR YOUNG: I did but the only reason why the Navy was not prepared the IMS was not because of its overall technical risk but just because of the price.

MR KUPER: Let us proceed on that basis, that is why I have been  
20 saying to you that it was the IMS through no desire of your own had become a friction point in regard to price. Were you not being encouraged by officials of the Navy to try and reach some accommodation with ADS that you satisfy you and would satisfy ADS and would resolve this problem that was emerging between you in  
25 regard to the risk for the IMS?

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DR YOUNG: Not really and certainly not official there were just the slightest indication of pretty low level people in the Navy like Commander Egan Fowler and I think Lieutenant Commander Cothill that it would not be a bad idea to try to engage with ADS which is what I did  
5 in the middle of June. Other than that and certainly by this stage there had been no such encouragement or certainly not official encouragement at all. It was just kind of like a subliminal one.

MR KUPER: Yes I am not sure what you are trying to so. Here are negotiations going on in regard to price. The problem is this hot potato  
10 of who will take the risk for the IMS and the Navy is taking up the position well, this has to be sorted out between the main contractor and the sub contractor and it would be sensible if they did so. I do not know why you talk of official or unofficial?

DR YOUNG: Well I am putting it in the context of what you said almost  
15 at the beginning of the theme. I just wrote it down quickly and I will, forgive me if my wording is not a 100%. You said that one could expect to see negotiation and agreement between those four players regarding risk. You have just said that there were negotiations going on regarding risk.

20 Sure there were negotiation going on regarding risk between the GFC and Thomson-ADS and Armscor and the Navy. There were no such things happening with us. So they were all unilateral or let us say, they were only happening in one aspect. There were no negotiations and agreements as one might expect. To the contrary I unilaterally  
25 contacted ADS with regard to a risk proposal to manage risk. I think it

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was a one way street. So that in my book that means there is no negotiation agreement when there is a one way street in terms of one letter which is not replied too.

MR KUPER: Yes it is the very long answer that cause trouble. I was  
5 asking you about the Navy encouraging you to go and talk to ADS and your answer if I understood you correctly was, well it was only low level officials who were encouraging me. Is that right?

DR YOUNG: Yes, I can just remember telephonically I can remember a couple of very few phone calls. Those are the only people who we were  
10 speaking to in those days and there was never... you know these kind of things if they were going to happen there would have been a letter or an instruction from the project officer or the program manager this is a problem, go and deal with this. Then also this deal with it in this way and report back to us. There was none of that.

15 There was just the slightest inkling of this is going on and it might not be a bad idea to see how you and ADS can shake this one out. That is all and I took that seriously and I wrote that letter. There was nothing more than that at this stage up until the stage from the DoD or Armscor.

MR KUPER: I just find it puzzling that you somehow suggest that the  
20 there should have been more. You were not being nurse [indistinct]. You were hinted by appropriate persons, 'go and talk to ADS and sort this out'?

DR YOUNG: That is what I did.

MR KUPER: So then let us look at what you did. If you will turn to page  
25 215 in this file. We have a letter by you dated 7 June 1999. Do you

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have it?

DR YOUNG: Yes I do.

MR KUPER: I just want to work through this letter with you. It starts off with, I am sorry Chair we are at 215. The letter starts of the  
5 encouraging suggestion of co-operation in SA Navy's Corvette Combat Suite. It starts off:

*"As we know the SA Navy Corvette Project Team are attempting to finalise the configuration of the Corvette Combat Suite. This is clearly an extremely complex and demanding undertaking when considering the  
10 issues of performance; cost; risk and financing as well as the inevitable dependencies between these factors."*

Of course although you wrote that in June 1999 you were say looking at it now you were absolutely right, that is a correct description of the problem that was facing the parties at the time?

15 DR YOUNG: That is correct, yes.

MR KUPER: Then you went on:

*"It has become clear to us over the last number of weeks that the matter of the inclusion of the information management systems within the combat suite is particularly complex one in the context of it being a  
20 South African developed sub-system and one which affects the performance of the complete combat suite. The complexity of the matter is exacerbated by the fact that Thomson-CFS has offered to provide financing and a performance guarantee for the entire combat suite."*

25 Let me stop there. How had it become clear to you over the last

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number of weeks that this task of integration was particularly complex?

DR YOUNG: Well because of the clear changing of both the technical baseline in terms of the combat, the CS7 (Mod1) that was one factor. The other one I think was in play by then was the issue of the part C and  
5 part B contractors that was another complexity. So there was a number of things.

All the requests for offer that we had and we were made visible by ADS of the higher level request for offer. Designed to cost measures. Not only the changing of the baseline but the chopping and changing.  
10 The removal of the dual protocol stack. All of those things were backwards and going forward. That contributed extensively to this complexity.

MR KUPER: You go on to say:

*"The complexity of the matter is being exacerbated by the performance  
15 guarantee for the entire combat suite so that you understand that this would mean taking responsibility for the IMS a difficult undertaking for Thomson-CFS unless they had clear visibility into the IMS in terms of performance; completion; status and risk factors."*

DR YOUNG: That is indeed is the nub of my letter.

20 MR KUPER: So let us agree. You had recognised that Thomson-CFS as you called them had put themselves in a difficult position because the contract was obliging them to stand good for the guarantees. You were saying in effect, 'oh but is I can show you something about the IMS if I can show you, if I can only show you. You will realise that really you  
25 have no risk in regard to the IMS.' Is that it?

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DR YOUNG: Effectively not risk or low enough risk not to penalise our sub-system with such a high risk that it was doomed for exclusion.

MR KUPER: Yes, you were trying to sell the idea that the IMS could be kept on. It could be kept on at Thomson's risk and Thomson ought not  
5 to have sleepless nights about it?

DR YOUNG: Well certainly this is also opening a channel or an invitation to say well we cannot take all this risk ourselves. At least put a reasonable amount of money where your mouth is. That was certainly a option open to JDS. It was not just a clear sales pitch.

10 MR KUPER: Well all that I have done is read the paragraphs of your letter thus far. You tell us at page 216 or you tell Thomson at page 216 that:

*'The aim of the letter is therefore to invite Thomson and ADS to meet C-Squid I-Squid Systems to discuss and review the present status of the  
15 IMS with the view to reaching a mutually satisfactory arrangement for the retention of the IMS in the Corvette Combat Suite Configurations.'*

That was the purpose?

DR YOUNG: Yes.

MR KUPER: Then in paragraph 4. You do acknowledge that the IMS is  
20 a developed mental item, paragraph 3. But then you immediately discount that. You say that:

*"As any system engineer or program manager will know there are always many factors which effects system equipment selection. While developmental items always represent some risk in the implementation  
25 of complex systems there are also many plus factors for doing so. In*

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*fact where there is apparently absolutely no residual technical risk in the selection of an item the item is most probably absolute.”*

So that is a flipened[?] phrase but indicative of a paragraph which says, yeah it is developmental but there is not risk?

5 DR YOUNG: It is certainly not flipened at all. None of the tone of this letter is flipened and I will not allow you to leave it that way. It is not flipened in the slightest. It is well known in system engineering that if you are trying to develop a system that has a longevity of 15 or 30 years or it has a cutting edge against your adversaries is if you just used  
10 absolutely tried and tested of the shelf technologies or systems with 00( zero) risk it normally means that, that product is close the end of its useful life. There is nothing flipened and there is nothing untrue about it.

MR KUPER: I never suggested that it was untrue.

DR YOUNG: You suggest that it was flipened?

15 MR KUPER: Certainly. Were we go in paragraph 3.1 is a sales pitch I put it to you in which you talk up the IMS.

*“It is state of the art, it is world class interconnectivity system and it is based on international standards and commercial of the shelf technologies. The IMS has a very high specified performance as well as  
20 rich functional capability. All of which can be proven or demonstrated right now. In fact in most functional areas of the IMS a chief performance is substantially higher than specified.”*

Then you say:

*“As obsolescence is an unavoidable, inevitable coupled to the use of  
25 COTS we have what is believed to be a well thought out and practicable*

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*obsolescence plan.”*

So that is all intended to re-assure Thomson that it really is a very good system?

DR YOUNG: Yes and constitutes low risk.

5 MR KUPER: As you say and constitutes no risk. Then in 3.3 you deal with DIP factors and you make the pitch that the indigenous IMS is an excellent candidate for DIP.

DR YOUNG: That is correct, yes.

MR KUPER: Then at 217 across the page at 3.5 paragraph you come  
10 back to risk. Regarding risk:

*“No risk assessment has even been carried out by Thomson or ADS on the IMS or the C-Squid I-Squid systems as the responsible development company. We can only therefore conclude that that Thomson-ADS reluctance to select the IMS derives from a combination of costs/risk  
15 factors which are of course very difficult to quantify.”*

Just tell us why is it so difficult to quantify?

DR YOUNG: Well you see one have to look at the sublime and the ridiculous, the ridiculous would be that if one is taking for example ourselves taking a risk regarding the IMS and we add a risk factor or  
20 even if we double, we double the price of our IMS from R42 even to R84 million we are taking that risk. We would be providing a risk guarantee for a R2 billion combat suite. That is a difficult thing to get grips on. So the way that I say is very difficult to quantify it is. It is not impossible to do so it is not impossible to come to a reasonable negotiated agreement  
25 regarding risk.

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MR KUPER: Yes if I understand you correctly you are making the point that even if you were to have increased the price of your combat suite from R42 to R84 million that would not have not have been sufficient to guard you in the event that you had the full risk of the combat suite malfunctioning or being late attributable to the IMS. It just would not have been enough?

DR YOUNG: You see as it said, it is a very complicated situation and you are trying to make it into a simplistic one. Because one unfortunately one has to elaborate here. Is that there are four systems. Are all four systems going to be found faulty several years later. Also that require or invalidate the whole combat suite. So you need to throw away the whole combat suite.

Or if it only involve one vessel. Will it cause the first vessel to be six months late and attract penalties of (what is the standard) 1 x 14<sup>th</sup> of a % per month is the standard Armscor penalty not per month, per week or something like whatever it is. Is that the risk? Is it the entire combat suite or is it the IMS. Okay the IMS is faulty but we have only delivered one system. Stop we are not paying you anymore. We have spent R15 million out of your R44 million. So now we are going to take the rest of the money the other say R30 million and give it to another company to go and do something so. There is that amount of money and maybe they will be late and that will attract a penalty. So it is such a complex environment just to arbitrarily quantify risk but were I say it is quite possible to do so, That is what we do in engineering all the time.

What are the scenarios and what are the parameters. Once you have

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got that point of departure or a baseline then it is not so-so impossible or difficult is not impossible to do so.

MR KUPER: I am really am asking you quite a relevant question. I would prefer you if you would just focus on the answer to this question.

5 If the risk that you had to shoulder was not confined and limited to the IMS but it extended to other components of the combat suite which might be affected by a malfunction of the IMS. Then even if you increased your price to R84 million would that have been sufficient to guard against that extended risk?

10 DR YOUNG: I am pretty sure that I would have.

MR KUPER: You think that would have been a business like assessment in that situation?

DR YOUNG: Well I think that it would have been slightly generous a little bit over the top but certainly in my considered view that would have  
15 been pretty generous. To be honest if we were quoting a R42 million system and we were allowed to quote R84 I have a 99% surety that we would have had a windfall of about R40 million.

MR KUPER: No I think as you started the answer you were being quite frank. You said well R84 million at most perhaps just a little bit  
20 generous. Then you realised of course the difficulty that, that was the price that was quoted by ADS which you have denounced as exorbitant and impossible and a complete [indistinct] machination. So you had to tailor the second part of your answer to deal with your realisation of where you were going and you answered in the way that you did. Am I  
25 right?

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DR YOUNG: You are wrong. You are even arithmetically wrong. You are also drawing assumptions which are inappropriate. The price quoted by ADS was R89.255 million. I only used the figure of R84 million because it was double our R42 million and I said straight away that, that  
5 was gen... I was only using that as a point of illustration. That is all.

As I have said before I think I have stated a couple of time I think without any changes of the baseline. If were asked explicitly for risk to provision for risk then 15% on top of our R42 or whether it was R38 million or R40 million, 15% would have been reasonable and with the  
10 late changes of baseline maybe a 30 to 35%. That is what I believe is reasonable. I was only using that as an illustration.

MR KUPER: No doctor I understand what you case and your line has always been. I was just interested in this franker answer that you gave. Let us press on. The letter goes on to deal with other risks reduction  
15 factors that you think should have been taken into account. You deal with them and then you issue an invitation to Thomson and ADS in paragraph 5:

*;"We are therefore taking the advice of the Corvette Project Team."*

Now what was the advice that the Corvette Project Team had given  
20 you?

DR YOUNG: As I said is all that I can remember was telephonic discussions between lower level people like Commander Egan Fowler and his subordinate Lieutenant Commander Andrew Cothill that it would be in our interest to try to sort this out with ADS.

25 MR KUPER: Surely the Commission can accept that the advice you had

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been given is the advice that you immediately set out in that paragraph.

*"We are therefore taking the advice of the Corvette Project Team and inviting you and your Thomson-ADS team to visit us at our offices in Cape Town to discuss the issues of cost and perceived risk of the IMS as well as to provide you with a credible and substantial demonstration of the IMS as it presently exists."*

DR YOUNG: Yes.

MR KUPER: Now that advice was good and sensible and sympathetic advice, was it not?

10 DR YOUNG: Yes but very late advice.

MR KUPER: You can go on in paragraph 6.

*"To deal with the present stage of development that the IMS had reached its status and you say quite rightly you must obviously come to your own conclusions but we wish briefly to advise you of the present status of the IMS. According to the present technical baseline as achieved under the Project Suvecs the IMS completed DR2 over two years ago."*

What is the abbreviation DR2?

20 DR YOUNG: It is Design Review 2. It is the equivalent of the critical design review.

MR KUPER: In fact it was the first sub-system by some margin to do so. You are then saying:

*"We are not progressing rapidly to factory acceptance tests which would have been the main part of DR3 and defined three interim milestones, integration demonstration test 1; 2 and 3 in the lead-up to IMS DR3."*

25

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So DR3 is the development phase which had been financed and which you had progressed under Project Suvecs?

DR YOUNG: Yes.

MR KUPER: It is not the factory acceptance test which was not being  
5 contractually imposed once the bid had been allocated and performance had begun?

DR YOUNG: Well they are not the finalisation of the acceptance of the factory expectance test. The fact does not occur in one foul swoop. It is build up over a long time. It could even be a year or so and as I think I  
10 have pretty correctly say we are progressing rapidly toward factory acceptance tests.

MR KUPER: You are progressing toward factory acceptance tests in the context of the developmental project. That is not the factory acceptance test which is to be contractually imposed for the purpose of  
15 the delivery of a performing vessel?

DR YOUNG: No that is not quite right. There would have been, you see you have to look at the factory acceptance test in two contexts. The technical one and the contractual one. Of course the contractual one only gets accepted once the technical ones are done. Technically was  
20 we were undertaking all of the technical tests that would be consolidated into a thing called FATS. Even though they might have been done before even it might have been done under a different contract. They would have still be relevant. They would not have to be repeated and certainly not in the entity but once we had all of these tests done,  
25 formulised and witness by Armcor' ADS and Navy then that would have

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become a (let us call it) a baseline for the next phase which would be in the formalisation of FATS in a different contract. So it is not irrelevant they were being done right there and then at that stage.

MR KUPER: In that stage which was not the contractual position not the  
5 position under the project contract you were reaching milestone 3. Is that right?

DR YOUNG: That is correct yes.

MR KUPER: What you were telling that is that there were advanced functional tests of all IMS functions together as well as with target  
10 hardware and real-time operating system. Milestone 1 was completed successfully last year. Milestone 2 in March this year and at present we are in the process of Milestone 3 testing and should be complete within two weeks or so. This effectively represents the complete IMS functionality as presently specified and baselined. Now that is off  
15 course a reference to the pre Detexis phase?

DR YOUNG: Yes.

MR KUPER: It reads:

*“At the present rate the IMS will be complete well before most of the other sub-systems are ready for integration. In fact we would be in a  
20 position to supply nearly all functional elements of the IMS to other combat suite sub system suppliers almost immediately to enable them to proceed with their own interface development.”*

So the report that you are giving them as to the progress of the IMS and its status is an upbeat one and allows them the comfort that  
25 Milestone 3 in the development testing phase would be complete within

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two weeks or so?

DR YOUNG: That is correct, yes.

MR KUPER: Was it complete in two weeks or so?

DR YOUNG: No, I can remember that there was a small technical  
5 problem and it took us another month or two.

MR KUPER: I asked that and I want to interrupt myself for that purpose.  
In the memorandum which you supplied with your conversations with  
your lawyers what you said, if you turn back to page 214 and this is  
now 5 August. You go to page 214. Paragraph 38:

10 *"In terms of our current contract with Armscor we are obliged to reach  
Milestone 3 by August this year."*

So obviously you are talking about a contract previously awarded  
under the Armscor regime Project Suvecs, is that right?

DR YOUNG: That is correct, yes.

15 MR KUPER: It reads:

*"In terms of that contract we are obliged to reach Milestone 3 by August  
this year. Milestone 3 is a specified demonstrable level of completion.  
We will achieve this by end August possibly September. We believe that  
final completion can be achieved by April 2000 which is the proposed  
20 effective date for the purchase of the Frigates. In other words the date  
that money will start to flow."*

So even in regard to the I would call pre-contract phase the Suvecs  
contract phase you were not managing to keep up with what you were  
telling Thomson in regard to completion of Milestone 3?

25 DR YOUNG: No I just cannot understand where that comes from. With

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Milestone 3 we were contractually obliged to complete by the end of August. We might have been as you said a couple of weeks late in September. This is uhm... this is a development project that you, cannot normally say that I am going to finish two years hence. Well you cannot  
5 say that I am going to finish on 28 August. If some things take a little bit longer and you finish on 28 September it is contractually acceptable.

I will that was contractually but you also have to remember that these contracts were supplied placed by Armscor actually were normally invariably placed extremely late. That in itself was in loosely excusable  
10 delays. So there was absolutely no indication here of us not being able to complete our expectations timeously. None whatsoever.

MR KUPER: All that I am pointing too is the assurance that you chose to give Thomson in the letter at page 218 and the fact that clearly that assurance was not correct. You had said to them at present we are in  
15 the process of Milestone 3 testing and should be complete within two weeks or so. If that were true you would have completed Milestone 3 on or about 21 June?

DR YOUNG: Exactly then we would have been early that is what I was expecting at that stage. As it turned out we had tiny little bit of a  
20 software problem. I think it was some equipment by an overseas company a standard project common item. It took them a little while to resolve it. I am just talking about a couple of weeks or whatever it is. So we were still very well within our contractual obligations to finish by the end of August.

25 MR KUPER: Now in the letter at page 218 we come to a paragraph

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which I suggest is important. It is paragraph 8 and you are now speaking to Thomson in regard to this hot potato as to the responsibility for IMS performance. Will you turn that up again please?

DR YOUNG: Sorry I went backwards and I closed. Will you tell me  
5 which page?

MR KUPER: Page 218.

DR YOUNG: Okay I think have the right page.

MR KUPER: You should have a paragraph 8 headed: Responsibility for  
IMS Performance.

10 DR YOUNG: Yes I do.

MR KUPER: Let us go through that paragraph.

*“Regarding responsibility for performance C-Squid I-Squid Systems are definitely prepared to put our money where our mouths are regarding the IMS. In this respect we are more than willing to discuss matters  
15 such as performance guarantees for the IMS; risk management; contractual terms and conditions et cetera. These are matters that had been mentioned informally during the preparation of numerous rounds of offer preparation but have never been formally raised between our  
companies.”*

20 Now what I want to know from you is what would have been the monetary value of any performance guarantee that C-Squid I-Squid was prepared to offer for the IMS?

DR YOUNG: Well I am only just working from what I know now. I said according to the standard baseline 15%. If the modified baseline with  
25 the extra the bridge interface until and the dual protocol stack 35%.

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MR KUPER: 35% of R42 million.

DR YOUNG: That is correct or 35% of R44 million whatever.

MR KUPER: Do the arithmetic for me because I am sure that you are better than I am at that?

5 DR YOUNG: Well 10% of R44 million is 4.4 so we can say that 15% is say R7 million and 35% is more or less double that in the R15 to R20 million bracket.

MR KUPER: I did not know what 30% had such a wide range. You say 15 to R20 million?

10 DR YOUNG: Well you see I also said that where it was based on the R38; R42 or the R44 million that is why I gave you a range. I also do not want to expose my, I was not a good dart player so my mental arithmetic is not very good.

MR KUPER: So at the end of the day what Thomson was going to be  
15 offered by way of a performance guarantee from C-Squid I-Squid was somewhere between R15 and R20 million?

DR YOUNG: Well I am only saying that now. It was never asked so that is a completely theoretical question.

MR KUPER: But you know perfectly well what you were prepared to  
20 offer when you put your money where your mouth was and I am asking you how much was it?

DR YOUNG: Well I did not... what I have just said now applies to what I am thinking about right now in response to your question. At that time that could have been one my responses. As I said before you do that,  
25 before you want an exact [indistinct] and to make this thing a little more

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scientific rather what we call the calibrated Wet Thumb Method and that is to say well what are the parameters. What are the risks here that we are talking about. One Corvette or four or are we talking about liquidated damages in respect of late delivery and for how long et cetera.

5 You know unless those parameters has been laid out I would not have been able to give an exactitude but what I have been given you is certainly one good example.

MR KUPER: Well the parameters are clear enough. Any penalty that Thomson would have to pay arising out of a delay attributable to the IMS  
10 or a malfunction of the combat suite attributable to the IMS. In respect of the entire contract which involved four vessels if the amount of money that you were prepared to offer probably between R15 and R20 million?

DR YOUNG: My own response is you clearly do not know how the risks and the performance guarantees and liquidated damages work. You  
15 clearly have no idea whatsoever otherwise you would not have asked me such a simple question. But the actual risk is far, far more complex. I would say that the high water mark of risk taken by ADS is having the entire contract cancelled because of non performance. That could be a R2.6 billion risk. I very much doubt that. That would not only be the high  
20 water mark but it would be about a one in 100 million year spring tide at the same time.

MR KUPER: Oddly the abuse I could understand but not the rest of your answer. The proposition that I have been debating with you is simply how much money you were prepared to put up. You then said  
25 well it depends on the extent of the risk. I have told you what the extent

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of the risk is and instead of answering that question, you abuse me which is something that I can tolerate but it is frustrating because it is not moving this inquiry further.

How much would you have put up or were you prepared to put up if  
5 the risk which involved both the possibility of the imposition of penalties. It involved the possibility of claims for damages. It involved indeed any [indistinct] ability arising out of the contract attributable ultimately to malfunction or late performance in regard to the IMS. How much were you prepared to tell Thomson you would put up?

10 DR YOUNG: I have answered that question extremely clearly and then you went on with another point. Where you were talking about that in the context of the combat suite and I responded to that. I will repeat myself. I would say that if we were sticking with the agree baseline it would have been R7 million. If it was the modified baseline with the  
15 extended functionality then it would have been R20 million.

MR KUPER: Yet as you say Thomson looking at it from their point of view and looking at the worst possible scenario would have seen pecuniary risk running into the billions in the worst scenario?

DR YOUNG: Well you thought that it was abuse but that is exactly what  
20 I was responding to. Not [indistinct] but in response to what you were setting out there and now you are being more clear. What I am saying is running into the billions well of course billions start at 1 and ends at say at 2.6 in this particular case. I can only image under the most catastrophic contractual circumstances that I can ever image that the  
25 liability actually ran into the billions.

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MR KUPER: How many billions were involved in the contract to supply the entire vessel?

DR YOUNG: R6.873.

MR KUPER: Now tell me. Where in this letter is there any response on  
5 your part, apart from protestations of good will and cooperation. Where is there any meaningful concrete proposal of what you would contribute to the risk?

DR YOUNG: I cannot remember it being in this particular letter. I think it came in the next letter a couple of weeks later.

10 MR KUPER: Let us then turn to it. I think it is page 220 and it is date 29 June.

DR YOUNG: Yes.

MR KUPER: There you are dealing with the question already of what you call the non-selection of the IMS.

15 DR YOUNG: Yes.

MR KUPER: You start of by saying:

*"You are pleased to discuss the matter of the non-selection of the IMS with you on Tuesday 28 at the meeting facilitated by Chief of Acquisitions Mr Chippy Shaik as his DoD offices in Pretoria."*

20 Will you just tell us then of what role and participation and attitude Mr Chippy Shaik had taken?

DR YOUNG: Well indeed that was actually quite interesting in itself. We were summoned to a bidders kind of meeting somewhere in this time period. I attended that meeting and at tea time I think it was or Mr  
25 Shaik actually singled me out not necessary of ... he actually took me

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on. He remonstrated with me regarding the situation and he said well if you have got a problem with us and you want to discuss it with me then make an appointment to come and see me. I did exactly that. I was quite surprised to find Pierre Moynot waiting for us in Mr Shaik's ante  
5 room of his office.

MR KUPER: I am not sure that I am following that. You go on to say in your letter which is safer ground I think:

*"As Mr Shaik expressed during the meeting he believes that ADS and C-Squid I-Squid Systems should attempt to find a mutually acceptable  
10 solution to this problem."*

Had he expressed such a view?

DR YOUNG: Yes.

MR KUPER: He was trying to be the peace maker in regard to this unravelling problem?

15 DR YOUNG: Well it would not put it as high as peace maker maybe facilitator.

MR KUPER: You know what the problem was in regard to the Thomson attitude because you go on to say at 22.1:

*"You have expressed your opinion that the IMS imposes a risk to ADS's  
20 Combat Management System as well as to the entire combat suite for which ADS has offered to take responsibility for performance as a whole."*

So that was their position was it not?

DR YOUNG: Yes.

25 MR KUPER: It reads:

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*“Our position to C-Squid I-Squid on this is that ADS themselves changed the baseline system architecture such that the IMS if selected would be directly involved within the CMS. This is the downside of your approach to system architecture.*

5 *Regarding the IMS being a risk to the combat suite as a whole and Thomson-ADS providing a performance guarantee therefore this is the implication that Thomson-ADS must bear for the right of exclusivity in offering a combat suite to the SA Navy. It must be remember that there were in fact a number of other parties who had expressed an interest in*  
10 *offering a combat suite for the SA Navy’s Corvette. They may well not have taken the same view of risk that Thomson and ADS has done.”*

Now that is an important paragraph and I want to put to you certain impressions that it gives rise too. The first is that far from being willing to take any meaningful risk or undertaking of risk you were saying I  
15 blame ADS for changing the baseline so now it must not look to me to take up risk and I blame you Thomson for being exclusive. So now you must not look to me for risk. and by the way if the BAE competitive bid had been accepted then BAE might have tough differently about risk. Is that impressions valid?

20 DR YOUNG: Well there is a number of different parts of your what you have just set out. I suppose in a form of a multi question. Okay, it is important to remember what I am saying here is actually true. It was ADS who were changing the architecture. It was ADS who were now changing the architecture in such a way that the Combat Management  
25 System their own one their French one well Thomson and ADS together

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were changing the architecture.

Such that first of all it became the heart and the soul and the nervous system of the whole combat suite. Before it was not like that. If there had been the previous baseline architecture and the Combat Management System existed on its own as a level 3 then our system could not have effected it. Remember we are talking here like a R335 or whatever million Combat Management System.

So they have changed the architecture in such a way in now the IMS affects not the combat suite but the CMS that is one of the points that I was trying to make. Of course they are also changing the whole architecture of the combat suite as well where the performance of the IMS now starts to become extremely fault because of the extremely technical complexities involving point to point links and various other things that we did not quite ventilate in those two architecture diagrams.

Those are the points that I am trying to address here. You guys want it your way and now it is going to affect you. The way it was it would, it was specifically designed by us at the instance of Armscor and the Navy way back in the 1993/4/5 period precisely not to do this. That was the whole point of departure of the IMS design. Now they have changed it and the implications now come into play.

Yet we of course now get burdened with that problem. I am trying to point out actually that should not be our problem. So that is the first part. The second part is as you correctly say. The BAE certainly would not have taken that thing. I know that is the only reason they invited us to join them in their consortium, not my consortium their consortium. I

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was also approached by Atlas were interested in providing their own combat suite I think it is called Cosas.

The Swedish company Celsius Tech which is now part of SAAB they actually had a meeting with one of their directors in a very fancy hotel in the Waterfront in Cape Town. They were not meeting me for friendship or whatever I was told directly that they wanted us on board because they would have offered a combat system completely in line with the baseline architecture. So I know that at least three other companies would not have taken the same view as ADS. They could do so because they were now exclusive.

MR KUPER: The only point that I am making is that I infer from this paragraph that you were saying to Thomson it is your fault and it is ADS's fault so you must not look to me for any contribution in regard to the changed risk, am I right?

DR YOUNG: Well not completely. We are aware of the rest of the letter I actually set out the three different option what various combinations for these options of a way forward [instinct] amicably finding solution to this in passing.

MR KUPER: I am going to come to the three options you do not have to go there first. I want to also draw attention to the last paragraph on page 221 when you turn on the Navy and you say:

*"Furthermore I am of the opinion that the Navy should be prepared to pay a modest premium for the peace of mind of the IMS being included in Category B, ie where ADS carries the risk rather than Category C ie, whether SA Navy carries the risk."*

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So the second repost was that not only is it your fault but the Navy itself must be prepared to come to the party, Is that right?

DR YOUNG: Well it is Navy who was allowing the technical baseline to be changed and the whole issue of risk had never been addressed from  
5 the beginning. So if they suddenly wanted to change the contractual baseline and include risk and of course at the same time I think in one of previous letters I actually referred to the R2.6 billion. Clearly that R2.6 billion was allowing for some risk as regards the other option which would have only been R1.9 billion.

10 So surely if they could accept a price increase of R700 million which included risk provision... now we are at a stage where it is relevant to talk about the Part C. If they are not prepared to carry the risk there why should the IMS be the only one where at a very stage we suddenly have to carry all the risks ourselves. It just does not make any sense.

15 MR KUPER: I am going to come and deal with B and C but I just want to finish off the impressions of the letter. So Thomson on reading it would see firstly that it was its fault. Then it was ADS's fault and then that the Navy should come to a party but that it would not find thus far any offer on the part of C-Squid I-Squid to make a pecuniary  
20 contribution by way of the furnishing of the guarantee. Would not as yet have seen anything like that. Would it?

DR YOUNG: No because there is two, first of all we have never been asked and secondly I had created the channel by which to use your own words 'to negotiate and come to an agreement' in this regard. I had  
25 opened the channel.

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MR KUPER: Now let us look at the options. You have them at page 222.

*“The first option is to revert to the project baseline architecture, ie that refers to a CS7 (Mod1). Here the CMS can use whatever interconnectivity infrastructure that ADS may use. A network bridge provide within the scope of the offered IMS will provide transparent data transfer between the CMS and the rest of the combat suite and provide autonomy for the CMS and other sub-systems. This is most technically and contractually elegant solution.”*

10 So what you want to revert to is CS7?

DR YOUNG: No, CS7 (Mod1).

MR KUPER: CS7 (Mod1)?

DR YOUNG: That is correct.

MR KUPER: What was the difference between CS7 (Mod1) and the then present situation to which you were having difficulties?

DR YOUNG: Well the then present situation as of the time of this letter which is 29 July was that to all intensive purposes the IMS had been de-selected.

MR KUPER: So all that you are saying then is what I suggest is that the IMS be re-selected?

DR YOUNG: Yes I said to all intensive purposes it is not exactly exactly clear when this was made but it would certainly seem from around 24<sup>th</sup> or 26 May that ADS at this stage was not longer offering the IMS but offering the Detexis. Basically I was trying. The contract still had to be signed. The door was still open to do so. So basically I was trying to

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recover from a recover from a particularly onerous situation.

MR KUPER: Yes [indistinct].

DR YOUNG: You are shaking your hands there obviously trying to indicate something I am not... just trying to analyse a response. Yes  
5 what I was trying to say is that if the architecture include not so much the Detexis System but the Thomson Tavitac Combat Management System. Not the Detexis System the we can go forward with the CS7 (Mod1) architecture which basically gives autonomy or a large degree of autonomy at least at that Level 3 sub-system level without us, well  
10 without my company necessarily having to call all the shots inside the inner workings of your own companies product the Tavitac Combat Management System.

MR KUPER: It reads:

*"The second option is that ADS give you a contract for R15 million to  
15 allow you to complete the IMS 100% according to the present IMS specification but that was to be modified by agreement but ADS and C-Squid I-Squid to reflect the current reality of the combat suite. This would be conditional on ADS receiving the main CS contract it therefore represents no risk to ADS."*

20 That second option that I have just read seems to me an immensely unsatisfactory option if you were Thomson's just looking for certainty as to whether IMS whether C-Squid I-Squid would take some pecuniary responsibility for the IMS or not?

DR YOUNG: No not at all. You have been going on for quite a while  
25 now about how much we would have added on for risk. This is precisely

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the same thing. We would have added on R15 million to our R42; 48 or R44 million in order to first of all address risk. Secondly to account for these extra things. I mean part of that R15 could be for risk. But part of it is to add on the things that they were asking for like dual protocol stacks and a 5<sup>th</sup> IQA reference set and all of that kind of stuff. So they were asking for extra stuff extra functionality and extra hardware. A lot of extra hardware.

So the R15 million is a fairly modest amount of money and it almost accords with an amount that we may have added on for risk. Of course this is not really at ADS's risk. They could have placed the contract on us so that we cannot waste time. This is a very though out thing so we did a contract. We immediately carry on with the development of this dual protocol stack and the brit interface until and whatever, which is new stuff, not to waste time so that we do not delay the project and do not invoke liquidated damages in the case of delay.

But at the same time it would only be conditional of ADS receiving the main contract. So there is no risk to them. I mean this is a pretty mayor concession from a small company offering a R40 or R50 system to one that is pitching for a ADS they are pitching for R1.6 billion project including a R335 million Combat Management System.

MR KUPER: I am coming back to this. It is not a matter of you putting up money for risk. It is matter of you saying to them that they must pay you R15 million for the completion of a development contract that they must now give you and in the next paragraph you say:

25 “Should C-Squid I-Squid Systems meet the specified requirement that it

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*is to complete within nine months of order then they receive the contract for the supply of production IMS's for the Corvettes themselves as well as those for the integration test bed and the IQA reference set."*

So as I understand it, what you are doing is saying to them that you  
5 have got this problem and here is the solution I offer and give me  
another contract and that will get development up to 100% in about nine  
months. If it does work out that way then give me all the contracts that  
relate to my participation then and there. Is that where we are?

DR YOUNG: No not quite I am not sure whether you are leaving this  
10 out purposefully or not. I have just explained it. I said the contract the  
development contract will still be conditional at ADS if they receive the  
main contract. So they are not at risk. Basically what it would mean is  
that we get [indistinct] a contract on us so we can start immediately with  
reducing the risk by doing the work.

15 It is conditional. We do not get any payment for it once they get the  
main contract. If they do not get the main contract then we have taken  
the risk and actually suffered the risk. We would have done nine months  
worth of development work that we never get paid for. This is clear as  
the light of that without my interpretation what stands on this piece of  
20 paper in black and white before us.

MR KUPER: It seems to stand on is give me another contract that will  
last for nine months and if at the end of that contract I have preformed  
as I have promised you I will, then I will get all the contracts that we  
have been talking about the risk.

25 DR YOUNG: It therefore represent no risk I suppose you cannot see

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that on your copy.

MR KUPER: Then the third option is somehow a combination of the first and the second and those are the three options that you were offering in this debate?

5 DR YOUNG: Well those are the three options but of course option 3 does in effect offer a wide variety of solutions to this problem.

MR KUPER: I wonder Chairman is that is an appropriate time at which to break off?

CHAIRPERSON: Thank you. We will adjourn for lunch until 14:00.

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**COMMISSION ADJOURNS**

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**COMMISSION RESUMES**

FEMALE: Do you confirm that you are still under oath say I do.

**RICHARD MICHAEL MOBERLY YOUNG**: (s.u.o.)

ADV KUPER: Thank you, Chair. Dr Young, just [indistinct] with the  
5 adjournment, I had been trying to track the negotiations and the  
discussions, and perhaps more importantly the standpoints that had  
been taken up by Thompson on the one side, by Thompson and ADS on  
the one side, by C<sup>2</sup>I<sup>2</sup> on the other side, and by the Navy. In  
summarising and collecting the information which reflected the C<sup>2</sup>I<sup>2</sup>  
10 position, I have overlooked a document that I should briefly call attention  
to. If you will go to CROSS-EXAMINATION BUNDLE 4, that is the grey  
files as you would have them, and go there to page 785.

DR YOUNG: Page?

ADV KUPER: Page 785.

15 DR YOUNG: I have that.

ADV KUPER: That is the first page of what is to be the quotation, the  
offer of, I am just looking for the date of it, it is December I think, the  
22<sup>nd</sup> of December 1998. Is that right?

DR YOUNG: That is correct. Yes.

20 ADV KUPER: What I want to draw attention to, is what you note at page  
789. You will see at the top of the page there is the table in which you  
describe the IMS to be supplied and you cost it, and you come out  
inclusive of VAT with a total of R54 million, closer to R55 million. Do  
you see that?

25 DR YOUNG: That is correct. Yes.

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ADV KUPER: It is the note that I want to draw attention to:

*“IMS performance specifications cannot be guaranteed at this stage. As additional TCP/IP routing will be required, the interface to the Application Interface Services (APIS) of the Information Management System (IMS), is proposed to be via Ethernet, and not a Parallel Backplane Bus (PBB) as was specified in IMS DR2 baseline. We will endeavour to meet the IMS specifications, which can only be guaranteed once prototyping and analysis of these new requirements has been performed.”*

10 Was that stage ever reached?

DR YOUNG: Sorry, I did not get it. Which particular stage was reached?

ADV KUPER: You say here in the note:

*“We will endeavour to meet the IMS specifications, which can only be guaranteed once prototyping and analysis of these new requirements has been performed.”*

I am just asking you whether that stage was ever reached.

DR YOUNG: Absolutely. It had been reached with the baseline architecture and the baseline technologies. I have talked about the language that the competitors were speaking with XTP. That we certainly, in terms of the [indistinct] milestone tests, we actually far exceeded those. What this particular note means and it says specifically with TCP/IP routing, that... Okay, I do need to elaborate just slightly, it will only take a minute. When we were looking at that architecture diagram before, the CS7 MOD1, and there was the left

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hand side and the right hand side, your monochrome versions had the dark and the grey, we would have, well, not would have, we did completely meet and had already proven that we met all of those specifications that were relevant to what we call the Real Time side, the  
5 hard Real Time side, which in my diagram in colour here is the light blue side, to the right hand side of that little box says BIFRU, and that side talked XTP. On the other side where it talked TCPIP, because of the very nature of TCPIP, it is slower, it would have had possible performance degradation, possible, and that is why we downgraded the  
10 performance. But, I can assure you, that if even if there had been a downgraded performance, it would not affect the non-real time side, which is the left hand side, the Combat Management System side.

ADV KUPER: So, you were then in a position to issue the guarantee.

DR YOUNG: We would have been in a position if we had been asked to  
15 do so, I would imagine. Yes.

ADV KUPER: If that can close off the picture that I have been asking you to elaborate in regard to C<sup>2</sup>I<sup>2</sup> in its quotations and in its interaction with Thompsons and with the SA Navy, I now want to turn to the position of the SA Navy. And again, I do not want to waste time. If you do not  
20 have knowledge of this you must say so. The approach that was made to the Navy, was that the cost could be reduced, and particular the cost of the combat suit could be reduced, if the Navy were prepared to take a part of the risk attaching thereto to itself. Have you any personal knowledge of this?

25 DR YOUNG: Yes. Well, I have referred in the letters that we just

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ventilated to some degree, the part B and the part C. So, I had a small knowledge at that time of what that meant.

ADV KUPER: Do you understand that the proposition was that the Navy would take a certain amount of risk up to the factory acceptance tests?

5 DR YOUNG: That is correct. Yes.

ADV KUPER: Now, the question for the Navy was, whether it was prepared to have a reduction of the purchase price based on its assumption of risk, and if so, what parts of the equipment it was prepared to offer to undertake the risk to factory acceptance. Do you  
10 understand that that was the debate and the dilemma?

DR YOUNG: Yes, as it involved the South African developed sub-systems.

ADV KUPER: Previous to this negotiating problem arising, do you understand there had never been a B and C Category risk?

15 DR YOUNG: Yes, I understand that.

ADV KUPER: The whole notion of a Category C arose when Thompsons, or ADS, made the proposal that the Navy should undertake some of the risk of some of the suppliers.

DR YOUNG: Yes, I think that is correct.

20 ADV KUPER: In the result, some of the suppliers were in fact assumed by the Navy as its risk, up to the stage of factory acceptance. But, the C<sup>2</sup>I<sup>2</sup> system was not categorised in that way, and the Navy refused to undertake that risk. Do you know that?

DR YOUNG: Yes. I think what you have said is not 100% correct,  
25 because we addressed the one letter, probably around the 26<sup>th</sup> of May,

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where Pierre Monot was explaining the price changing, and one of the explanations was the moving of the IMS from part C to part B. So, on their own version, the IMS had originally been categorised as part C.

ADV KUPER: On whose version?

5 DR YOUNG: ADS's.

ADV KUPER: I am dealing with an aspect of the South African Navy, who in their internal discussions had devised this Category C, and had placed certain systems in the Category C.

DR YOUNG: I thought that you said this was the proposal from ADS  
10 and Thompson as a mechanism for reducing the risk.

ADV KUPER: Sorry. No, you misunderstood me. The proposal from ADS and Thompson was that the South African Navy should undertake some part of the risk. Previously the South Africa Navy had undertaken no part of the risk, it was all Thompson and ADS. But now, the  
15 suggestion from Thompson and ADS was, if you want a reduction in the price, take some part of the risk. It was the Navy which then examined the question whether it should respond positively to such a suggestion, and if so, what risk it was prepared to undertake. In that regard the South African Navy undertook a classification for its own purposes, into  
20 what was called Category C. Do you understand that?

DR YOUNG: Yes. Well, I understand it was their response to an ADS proposal.

ADV KUPER: And while some systems were placed in Category C, C2I2's IMS was never placed in Category C.

25 DR YOUNG: Well, that is where I am... You see, that is why I am

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saying at least in the view of ADS, that is not correct, because Pierre Monot says in his letter that one of the reasons for the price increase is changing the IMS from Part C to Part B. So, unless I am incorrect, and it is not impossible, I have been incorrect in my life before, but that is what I can remember in that letter, and that was ventilated in the first part of my evidence two weeks ago.

ADV KUPER: But you see, the Commissioner has had the evidence of the officials who were involved in this exercise, and that includes Admiral Howell, it includes Admiral Kamerman and it includes Mr Nortje. So, I am really not going to redebate something about which the persons who have had knowledge, have given evidence under oath and explained the position. ...Intervene.

DR YOUNG: Sorry... [intervene].

ADV KUPER: Please will you let me finish, Dr Young!

DR YOUNG: Sorry, I thought you had finished.

ADV KUPER: Now, my comment to you is, I am not going to revisit it for your purposes, I am just going to ask you to record that you assert that in fact the South African Navy at one stage classified the system as a C system, and at another stage retracted that and classified it as a B system. That is a factual assertion which you wish to make, is it?

DR YOUNG: No. Now that you have explained it, the categorisation was done by the Navy in response to a proposal by ADS.

ADV KUPER: So, you no longer wish to persist in asserting as a fact that the Navy put the IMS as a C, and then changed it back to a B?

DR YOUNG: If you know better than me, and that is the actual facts of

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the situation. But, that does not undermine what I am saying, is the logical inference of somebody who was only supplied, who was not directly involved with these negotiations, is that it was originally in Category C and was changed to Category B. So, the exact mechanisms of that, is beyond me. But, I will not say I try to persist with that, other than to say at least from ADS's perspective, it seemed to change from C to B.

ADV KUPER: Indeed, as I have mentioned before, your understanding at the time you instructed your legal team, was correct. And, if you turn back now to page 213?

DR YOUNG: Okay, I have page 213.

ADV KUPER: At page 213 I repeat to you what you said at paragraph 29:

*"We understand that ADS is prepared to drop its price for the combat suit to R2.6 billion, but this would be on the bases of not accepting risk for a portion of the sub-systems. In other words, ADS would drop its price if it were relieved from certain performance guarantees. While the Navy is apparently willing to accept this, in relation to some of the sub-systems, the Navy is insisting that the IMS sub-system be guaranteed. This is because the IMS sub-system is crucial to the whole operation of the vessel, it is the nerve system of the combat suit and is absolutely key."*

I am putting to you that were a correct understanding of the position of the Navy.

DR YOUNG: Yes, that is correct.

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ADV KUPER: So, now let me try and summarise and draw all these threads together. All the three parties, four parties, Thompsons, ADS, C<sup>2</sup>I<sup>2</sup>, the Navy, are facing the problem of reaching an acceptable price. One of the ways of reaching an acceptable price, is for the Navy to  
5 accept some of the risk and thereby reduce the price. Another aspect of it is to clarify to what degree, if any, has between C<sup>2</sup>I<sup>2</sup>, ADS and Thompson, there will be a sharing of risk, or a definition of risk of the ambit of the risk as between them. What we seemed to have found, is that the position of the Navy was it would be prepared to assume some  
10 risk, but not in regard to the IMS. What we seem to have from C<sup>2</sup>I<sup>2</sup>'s position, is that yes, there might be a bases upon which C<sup>2</sup>I<sup>2</sup> would assume a risk, to the extent of R15- to R20 million. And, from the point of view of Thompson, there is a worry as to the consequences of it introducing into its tendered product, the C<sup>2</sup>I<sup>2</sup> IMS system, with all its  
15 attendant possible risk, as viewed from their position. Is that a fair summary of where everyone stood?

DR YOUNG: No, it is not, because... Okay, you said it is it a fair summary, was it a fair view of position of risk? This is the position that they took on risk... [intervene].

20 CHAIRPERSON: Just hold on, Dr Young. Just listen to the question and answer the question. Adv Kuper, can you please repeat the question?

ADV KUPER: Thank you, Chair.

CHAIRPERSON: Listen to the question and answer the question.

25 ADV KUPER: I am asking you if that description I have given, of the

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standpoint of each of the parties, is a fair description of the standpoint of each of the parties.

DR YOUNG: No.

ADV KUPER: In what way is it unfair?

5 DR YOUNG: Because the position that ADS was taking on risk was unreasonable.

ADV KUPER: I am not for the moment asking you whether it was reasonable, or unreasonable. I am asking you if I have given a fair summary of the standpoint that each was taking.

10 DR YOUNG: Well, again, ADS at the very best, being charitable, had changed their position on risk. It had been that there were no risks. Their position in December 1998, was that there were no unacceptable risks. Yet, suddenly now there were these risks. So, it is not a simple yes or no answer. In general, I would say no, that the position that ADS  
15 was taking on risk there, was opportunistic and self serving.

ADV KUPER: Now, the way that that manifested, was that as I understand it, the bid was then made to the Navy, which offered them a choice either to take the Detexis, in which case the price would be [indistinct] about R45 million.

20 DR YOUNG: R49 million.

ADV KUPER: Or, to take the IMS, in which case the price would be about R85 million. Is that right?

DR YOUNG: R77 million, plus R12 million for a risk study.

ADV KUPER: And in regard to the first choice, that is of the Detexis, the  
25 Thompson ADS consortium would of course bear all the risk from its

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own pocket.

DR YOUNG: Yes.

ADV KUPER: But, if C<sup>2</sup>I<sup>2</sup>'s system was used, then Thompson and ADS wanted to put in the price an additional R40 million, or R45 million rand  
5 to cover risk on the bases that from C<sup>2</sup>I<sup>2</sup> the only conceivable contribution might have been an additional R15 million.

DR YOUNG: Well, certainly not the only conceivable one. That is the one that I put on the table, but there were many other conceivable ones, including the various options and the combination of options. So,  
10 certainly that is not correct, that that is the only conceivable one.

ADV KUPER: And the proposition which I put to you before lunch, in fact, you were the one who initiated it, was that if you were looking at the full extent of risk, that is carrying a risk for anything that might be attributable to the C<sup>2</sup>I<sup>2</sup> IMS, then one would perhaps on a businesslike  
15 bases raise the price to somewhere in the R80 millions.

DR YOUNG: I did not say that was reasonable, I just said that was just one arithmetic way of looking at it, just doubling our price, which would have taken it, and I used the basic price of R42 to R84. But, actually our final price was R38. So, that is one way of looking at it, but in my  
20 view the R89 compared to our R38 was pretty much over the top.

ADV KUPER: Once the Navy was faced with those two bids at the time when it was driven by price, what do you think its selection was going to be, Detexis, or IMS?

DR YOUNG: IMS.

25 ADV KUPER: Even though it would be an additional R45 million to the

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price.

DR YOUNG: I can address that by way of analogy. Why did they want a R335 million Combat Management System, when they have chosen an indigenous R95 million one from ADS, possibly... *Ja*, in fact that was the original amount. You know, there was so many extra things that absolutely dwarfed the R2.6 billion, including its R450 million of System Integration and Project Management, and its R335 million of Combat Management system, absolutely dwarves the difference between R89 million and R38 million. For that amount of money, they did not nearly spend the R12 million on the IMS Study. So, even the R77 million, for the extra R30 million using the Department of Defence's own report, they would have got a better system.

ADV KUPER: So, what it boils down to, as I understand you, is you say to the Commission, well, they should have paid twice as much for a database than they could have paid.

DR YOUNG: If they had asked us, if this whole business of risk had been addressed, formalised so much earlier, then we would have included a risk provision in our initial costing and even our initial quotations, and that could have been worked into the so-called ceiling, the ceiling budget. Then, that would maybe not have been a problem, because there would have been sufficient, it would have been sufficient to deal with that. But, it was not, and that is one of the problems I am trying to state. The other thing I would say is in terms of logic, is if the Navy was prepared to pay R2.6 billion, when its expectations was R1.9 billion, what was the fundamental difference between 2.6000 and

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2.6045? Just R44 million, I think it is about 3%, or some miniscule amount, when they have already accepted a jump of R700 million. Why would paying the extra to get a superior system be such an impossible hurdle?

5 ADV KUPER: All right. Now, I want to just end off with the final effort made by the Navy to keep you within the system, if that was possible. I am talking about a meeting, which I think took place between Admiral Howell and Mr Swan and yourself, although you do not refer to it as a meeting, you refer to it as a get together.

10 DR YOUNG: Yes, it was a sit down in comfortable chairs, without a boardroom table to write on or anything. So, it was not a proper meeting.

ADV KUPER: That is because there was not a table in the vicinity.

15 DR YOUNG: No, because I went there with a person to take down notes, and one normally at a meeting sit around a table and take notes. You do not normally have a proper meeting where you are sitting around in the lounge chairs of Admiralty House. That is not what I expected.

ADV KUPER: Well, I am not prepared to debate further for your meaning, or your vocabulary, what you call a meeting and what you not  
20 call a meeting. What I want to know is this, what was discussed?

DR YOUNG: 95% of the discussions went around my threat to interdict the process, because of the [indistinct] interdict the process of awarding the contracts, I think we are now talking about August. In fact, my understanding at that time is that the contracts were going to be signed  
25 in September. As it turned out they were in December, but that was not

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long away. 90 to 95% of the thing was all around my threat, and that was the first part. They were most concerned about that. The second most important part was what I would be offered as compensation for withdrawing that threat. A miniscule, very miniscule part, was regarding  
5 the risk and the issue of a performance guarantee for the combat suit. It was those four issues.

ADV KUPER: Now, in regard to the threat, that would have been a threat which if carried through, would have disrupted the entire Corvette project for so long as the matter was tied up in the courts. Is that right?

10 DR YOUNG: Yes.

ADV KUPER: So, that was the power behind the threat, that you with a grievance, would go to court and would cause the entire contracts for the Corvettes to be delayed indefinitely.

DR YOUNG: Well, as quick as an urgent, or semi-urgent application  
15 can be hear.

ADV KUPER: But, would that not result in an interdict?

DR YOUNG: Yes, and then there could have been... Well, it would not have been indefinitely, it hopefully would have been within a [indistinct] amount period of time. It certainly was not our intention to be a dog in  
20 the manger, we also wanted a contract. We would not have been given a contract if we postponed it indefinitely. That was not the intention.

ADV KUPER: No, I perfectly understand that the threat was made by way of self interest, in order to put yourself in a bargaining position. But, I am just looking at the extent of the threat you were prepared to make,  
25 to make the Navy sit up, as it were.

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DR YOUNG: [No answer].

ADV KUPER: Although of course you say it is entirely miniscule, the conversation seems to have got round to perhaps you ought to put up a performance guarantee. Is that right?

5 DR YOUNG: There were very, very brief discussions. In fact, one of the few points that were made is when we were actually standing up and walking out of that, if it was a meeting, by that stage the meeting was for all intensive purposes over. Mr Swan, I think Admiral Howell did very little talking at that meeting, he was a listener. Lou Swan did the talking  
10 and I can remember quite clearly on the way out, he made an observation about performance guarantee.

ADV KUPER: What was the observation?

DR YOUNG: Sorry, please just give me a little time to gather my documents here. Okay. It was actually not only remembered by me,  
15 but it was recorded by Mr Llewellyn Swan in a letter dated the 4<sup>th</sup> of October, and from what I can remember this document was certainly discovered. I am just trying to work out now whether it was produced in the evidence bundles.

ADV KUPER: I am not asking you to document it, if you can remember,  
20 just tell us.

DR YOUNG: No, I want to refer to a document. I do not remember every single correct wording, and it is important that this gets put across by me absolutely properly. You know, I have identified the document, I will certainly make an offer to either identify the discovered document, or  
25 the produced document in terms of the index number or reference

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number. But, this was correctly recorded by Mr Llewellyn Roy Swan, who spells his own name incorrectly, ex-CEO of Armscor, based at the Armscor building Pretoria, and this letter was written to Mr Chippy Shaik on the 4<sup>th</sup> of October 2000. It is in respect of the very point you are  
5 talking about now, discussions with Mr Richard Young, held at Admiralty House in Simonstown. He says:

*"I would like to inform you that during 1999, together with Admiral Howell of the SA Navy, had discussions with Mr Richard Young in Cape Town, concerning the Management Information System for the Corvette  
10 program. The essence of these discussions revolved around the ability of the contractor, C<sup>2</sup>I<sup>2</sup>, to provide the performance guarantee necessary to satisfy Armscor that C<sup>2</sup>I<sup>2</sup> could, and would perform the tasks as required by Armscor and the DOD. What prevailed from the discussions, was that C<sup>2</sup>I<sup>2</sup> was not in a position to provide the necessary  
15 guarantees. Armscor DOD required from C<sup>2</sup>I<sup>2</sup> the guarantees to the full value of the Combat suit be provided, because that was the value of the effect of the MIS system that would have on the contract. While Armscor SAN recognise the contribution of C<sup>2</sup>I<sup>2</sup> to the Combat suit of the Corvette program in the development phase, it was not in a position  
20 to accept the risks of the C<sup>2</sup>I<sup>2</sup> solution unconditionally."*

Now that, is a very, very fundamental thing, and it is even more fundamental when it [indistinct] with the evidence under oath given to this Commission by his partner colleague in this meeting, Admiral Howell, and that was what I was looking for. Okay. They, normally  
25 when people collaborate like this, they like to be what one calls legally

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speaking on all fours. I think here they might have each been on one leg, because here is Mr Swan saying exactly what I remember him telling me when we were standing up, walking out. It was said more as a joke, because Mr Swan was the CEO of Armscor, he had been the

5 CEO of Roynard Defence, even though he was a chartered accountant, he says himself "I had never done a day's accounting", but he had a CA, so he understood the financial things. But, he had been involved in the defence industry. Now, what company seriously takes a request, when it is submitting a R38 million bid, excluding VAT, to provide a

10 performance guarantee for a R2.6 billion Combat suit, well he says to the full value of the combat suit, that is why I used the value of R2.6 and not the R6.87. It could not have been taken seriously by me, and I did not take it seriously at the time. But, I did respond, and I said that would be impossible, my bank balance is not that extensive. I can remember

15 there were kind of smiles and whatever. Of course, it does not make sense. That was what was asked of me in the meeting, nothing more, nothing less regarding a performance guarantee. But, what I do remember, and just to show the ludicrousness, the absurdity or the ridiculousness which seems to be the commonly used words in this

20 Commission when people are being cross-examined, Admiral Howell, and I went through this two nights ago, the first night after I was given this first file, and what he says, was that we were asked to provide a performance guarantee for the IMS. Yet, the other one says we were asked to provide a performance guarantee for the Combat suit. Now,

25 only one can be correct, and I was there, and I can tell you what we

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were asked to provide, a performance guarantee for the value of the Combat suit. It is indeed absurd and ridiculous.

ADV KUPER: I know how unfortunate it is when you make a big fuss about wanting to see a document, you then read it out and it is against  
5 you, and you have to spend ten minutes trying to explain why it is ridiculous. But, have you finished reading the actual letter?

DR YOUNG: There was nothing ridiculous about it, and it is very, very important, because at least from my perspective, it completely sums up the whole issue of risk.

10 CHAIRPERSON: Dr Young, have you finished reading the letter?

DR YOUNG: Yes, I have.

CHAIRPERSON: Have you finished reading the letter, because that was the question?

DR YOUNG: Yes, I have. I would just like to make a point. My  
15 understanding is that I am not only obliged to provide a yes or no answer like that. I am also entitled, or I have a right to also make relevant supplementary responses to questions like that. That is my understanding.

ADV KUPER: That letter, although discovered, has it been included in  
20 the documents in your files made available to the Commission?

DR YOUNG: That was what I was attempting to do that the beginning.

ADV KUPER: I am sorry, attempting to do what?

DR YOUNG: Well, to see if that document is referred to in my witness  
statement. I did have that relevant point, but I think in the last hour or  
25 two I might not have that place. So, it might take me a minute or two to

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find it in my witness statement. I can do so. If I may make an observation that is not flippant, if we are going to work to 17:00 or 18:00, I certainly would like a break in between, at 15:00 or 15:15 or 15:30, and if we had a break I would certainly find it then, not to waste time.

5 ADV KUPER: You indicated that a proposal had been made at the meeting, which you categorised as absurd, which was enquiring whether C<sup>2</sup>I<sup>2</sup> would put up a guarantee for the full effect and the full risk attached to the IMS, as it impacted on the Combat suit as a whole. You said that was ridiculous. I think you attributed that suggestion to Admiral Howell,  
10 did you?

DR YOUNG: No, I certainly did not. I did not read out Llewellyn Roy's name two or three times for the fun of it.

ADV KUPER: Please try and maintain an elementary degree of courtesy. Please try and avoid abuse as second nature speaking, Dr  
15 Young.

DR YOUNG: Okay. It was said by Llewellyn Roy Swan.

ADV KUPER: Because I have before me this statement of Admiral Howell, who says at page 260 of Volume 1 of the CROSS-EXAMINATION FILE, you needed turn there, you can just listen:  
20 *"Thus the decision before the PECP was in effect made, the state was unwilling to assume the responsibility for the IMS, and unable to carry the additional cost implication of the C<sup>2</sup>I<sup>2</sup> IMS. From this it followed that the state's only option was to select the Detexis Database. However, one further scenario was considered. C<sup>2</sup>I<sup>2</sup> would be requested to put up  
25 a performance guarantee to cover the R40 million risk premium*

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*attaching to its IMS, and if Young was agreeable, the PCB would be able to select C<sup>2</sup>I<sup>2</sup> IMS.”*

Was that proposal communicated to you?

DR YOUNG: Sorry. Could you just refer me to the correct paragraph  
5 there?

ADV KUPER: The paragraph which I am reading is paragraph 86. It is to be found at the foot of page 260, and runs on to page 261. Remember, the question is, was such a proposal made to you?

DR YOUNG: No, I think that was what I was saying before. He clearly  
10 says that we were asked to provide a performance guarantee to cover the R40 million risk premium, okay. That is completely different to what Mr Swan says:

*“Armcor DOD required that from C<sup>2</sup>I<sup>2</sup> that guarantees to the full value of the Combat suit be provided.”*

15 Those are two quite different things.

ADV KUPER: Well, whether they are, or whether they are not, were you prepared to put up a R40 million guarantee?

DR YOUNG: Well, we might have been, but we were not asked to do so. You see, I think the reasonable premise is if we had been asked  
20 directly by Lou Swan to do so, we might have at least considered doing so. But, we were not asked for it, so it becomes a complete [indistinct] point.

ADV KUPER: Well, let us leave aside [indistinct] points. At the end of the day, if I recollect correctly, you brought an array of litigation against  
25 the DOD and officials of the DOD, and that included the contention that

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you should be compensated because of your legitimate expectation to have received the IMS contract. Am I right?

DR YOUNG: Well, there were three defendants, and we made a total claim. You can join the first two defendants, the DOD and Armscor  
5 together, and that claim was in respect of legitimate expectation, and on the other side was ADS, and that claim was more in respect of unlawful competition.

ADV KUPER: Just so that there be no misunderstanding, included in the claim was a claim for compensation in respect of the IMS, and it  
10 rested on contentions of legitimate expectation, and you would serve unlawful competition as well.

DR YOUNG: That is correct. Yes.

ADV KUPER: And it was settled.

DR YOUNG: It was settled, yes.

15 ADV KUPER: C<sup>2</sup>I<sup>2</sup> received a sum of money to cover all and every piece of allegations and claims that it was making in this litigation. Is that right?

DR YOUNG: Not as far as I know. I know, without referring to the settlement agreement, I certainly would not agree with that.

20 ADV KUPER: Did C<sup>2</sup>I<sup>2</sup> accept a sum of money in compensation of its claims, whether valid or invalid, relating to the IMS and the supposed legitimate expectation and the supposed unlawful competition?

DR YOUNG: Not the way you have described it. No.

ADV KUPER: Come, come. Did the litigation proceed?

25 DR YOUNG: No, but the settlement was not in respect of the claim, that

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was about product of it. One really needs not just to work here from words or memory. The settlement agreement, the reason for the settlement agreement, was first of all initiated by the DOD. We accepted that, and the by product of it was that we will also abandon all  
5 the litigation. But, that was not the reason for the settlement.

ADV KUPER: Therefore, if there was ever any grievance, legitimate grievance in the hands of C<sup>2</sup>I<sup>2</sup> in regard to the IMS, it has been settled. Has it not?

DR YOUNG: Yes.

10 ADV KUPER: So, C<sup>2</sup>I<sup>2</sup> no longer has any claims in regard to the IMS contract.

DR YOUNG: Well, accept in the respect of whether the terms and conditions of the settlement agreements have been breached, or not.

ADV KUPER: I ask you this, simply because I am genuinely bewildered.  
15 We have spent most of the day dealing with what is obviously a difficult negotiation process about price. We know what each party did. We know the attitudes. We know the result. We know that one of the parties thereafter sued. We know that that party was settled. Why must the Commission undertake the duty of investigation of the matters  
20 pertaining to the IMS, unless you have a perverse desire to seek some form of revenge about a matter long dead?

DR YOUNG: *Ja*. You see, when you put it in such a tiny miniscule nutshell, that might have some relevance. But, my IMS story is part of a much greater theme, which I have addressed over something like 10 or  
25 11 days of evidence. It goes to the terms of reference of the

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Commission, which is, was there any irregularity in the process? Was there any bribery and corruption in the process? And the IMS sub theme of that is extremely relevant, both in respect of the bigger picture, the complex theory. And of course, at the same time because I was  
5 intimately involved in it, I am hopefully a relevant witness to testify about this. My understanding is that other than me, there is no such other human being on this earth, at least not one who is actually prepared to withstand this kind of situation.

ADV KUPER: I want to move on now to a different topic. I want to ask  
10 you whether indeed you appreciated that South Africa underwent a complete C change during the 90's, as it transitioned from a non-democratic state, to a democratic state?

DR YOUNG: Yes, I played my small part in it.

ADV KUPER: You understand that that C change affected all aspects of  
15 the country's political, and the country's military life as well.

DR YOUNG: Yes, I can understand that.

ADV KUPER: You appreciate that prior to becoming a democratic state, this country believed, or the government of this country believed it was under significant military threat, and it was unable to procure armaments  
20 on the open market, and therefore it did what it could, either to evade sanctions, or to grow local arms producing industry and the like.

DR YOUNG: Yes, I understand that.

ADV KUPER: Do you understand that overnight, when that situation changed and South Africa was received back into the international  
25 world, that it now had opportunities, amongst other things for the

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acquisitions of arms, on a totally different bases than it had ever had before?

DR YOUNG: Well, of course there are many meanings to that, but I certainly if there were scull [indistinct] before 1994, I would have  
5 certainly hoped that the new democratic dispensation would have seized that after 1994.

ADV KUPER: I am just making the point that now South Africa could on an international level, seek the supply of arms, that it would not be under sanctions, that there would be competition amongst countries to  
10 supply it with the armaments sought, and that the bases upon which arms could be procured, had changed completely.

DR YOUNG: No, it is not completely. I think if one has sight or knowledge of the defence review which came out in the start of 1995 and ended in 1997, there are still many aspects specifically strategic  
15 ones, strategic capabilities, that had not changed completely.

ADV KUPER: One of the fundamental changes, was a new constitutional dispensation, which placed the procurement of arms, and indeed the military, under civilian control.

DR YOUNG: Yes. That is correct.

20 ADV KUPER: And which fixed the government, the democratic government, and its organs of state, with duties to oversee acquisition of arms by the military.

DR YOUNG: Yes, within the constitutional precepts of Section 217, certainly including transparency and cost effectiveness and  
25 competitiveness.

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ADV KUPER: In terms of chronology, or history, this C change occurred, was dated, happened, at about the time roughly of the termination of phase one of Project SITRON.

DR YOUNG: Yes. The defence review I believe started in 1995, which is  
5 SITRON phase 1 was terminated in that month, May 1995.

ADV KUPER: Yes, put it in another way, SITRON phase 1 had been conceived under the non-democratic government, and its continued lifespan came to an end because of the defence review.

DR YOUNG: That is correct. Yes.

10 ADV KUPER: You are not suggesting that there is something untoward in the government of this country, having immediately put in place a defence review once the C change had occurred?

DR YOUNG: Well, the C change occurred something like the 26<sup>th</sup> of April 1994. So, if we are talking about May 1995, they did not put those  
15 changes, once the C changes occurred.

ADV KUPER: In that situation, I understand you to be complaining to the Commission, that the results of SITRON phase 1 were put aside, and you argue to this Commission as one of the grievances which you have, and one of the matters which the Commission should now  
20 investigate, why those particular bidders who had been top of the pile at the end of SITRON phase 1, should not automatically have been put on top of the pile after the defence review and when phase 2 came into effect. That is your grievance, is it not?

DR YOUNG: Is it?

25 ADV KUPER: I want an answer, not a question.

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DR YOUNG: I do not think that is my position at all. I cannot ever remember saying, using your words, that my position is that the members, sorry, not the members, the bidders in phase 1, the top of the pile, you talked about the plural. There was one bidder at the top of the  
5 pile which was Bathan, but there were two bidders at the top. Are you trying to say to me that it is my position that they should have automatically gone to the top of the pile in phase 2? That certainly is not my position.

ADV KUPER: Do you accept that in phase 2 there should have been a  
10 replay of the process?

DR YOUNG: Yes, indeed.

ADV KUPER: And that it would be fair that all those who had participated in phase 1, be given an opportunity to participate in phase  
2.

15 DR YOUNG: Yes.

ADV KUPER: You accept therefore that it was proper that all nine, if there were indeed nine countries involved in the previous bidding, should be invited to participate in the second round.

DR YOUNG: Yes.

20 ADV KUPER: That would include Germany.

DR YOUNG: Yes.

ADV KUPER: So, you have no complaint at all against the fact that bidding was re-opened, and that the Germans, amongst others, were invited to bid?

25 DR YOUNG: No, I do not have any complaint. In fact, I personally do

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not have any complaint at all, I am just a messenger here in that respect, and a witness before an information gathering commission. But, if it were to be a complaint, my only complaint was that there does not seem to have been a valid reason for why the phase 1 process had

5 to be stopped on the so called requirement of the defence review. The naval requirement existed, it existed from 1980. We know that that requirement is still valid today. The Navy requires its offshore patrol capability perennially, all just because there are changes of government, it does not mean to say the Navy's requirements changed. So, what I

10 am saying is that the Navy's requirements were valid, there was a due process in round one, which clearly the Spanish won, and all the documents that I educated, the ones written by Admiral Howell, Chief of Staff [indistinct], and in fact his testimony if I remember the JIT, are that the process was completely done, done properly. What I am saying is

15 maybe two things. There does not seem to be a valid reason for putting that process on hold, unless it is a political one, and normally defence decisions, defence equipment decisions, are not based on political requirements, it is based on defence requirements, Naval requirements. And, if it is true what this piece of rubbish absurd German investigation

20 report says as you say [indistinct], if that process was halted, SITRON round one, because the chairperson of the [indistinct] Standing Committee in Defence was paid a R2.5 million bribe in order to do that, then that is part of my bigger thesis. That is, not complaint, that is my evidence. It is not a complaint, I am not here as a complainant, I am

25 just here as a witness.

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ADV KUPER: Well, let me respond to the arms as you were giving by asking you some questions about them. If you then were the government, instead of the government, you would have continued with phase 1, you would not have redone the bidding. Is that the first point?

5 DR YOUNG: Yes.

ADV KUPER: You are not the government.

DR YOUNG: Thank you for that.

ADV KUPER: Next point is one where the Chairman some time ago has put to you, with great respect, the irrelevant question. How would any  
10 sane person believe that Mr Jengeni, on his own, would have the ability to cause the defence review, to stop the project on his own, to bring the Germans back, to create a situation which you say is one that this Commission should seriously go and investigate?

DR YOUNG: Well, I said it is a point that they should investigate. I  
15 think that there are probably far more serious ones, regarding the bribery and corruption. But, of course if what the Germans say that this also involved bribery and corruption, then that would be a relatively serious point for the Commission to consider. But, the other part of your question is, the chief whip of the ruling party, who is also the  
20 chairperson of both the defence committees, there is a portfolio committee and the other one, the joint standing committee of defence and portfolio committee, also has the evidence that he was being groomed, or lined up, to be the next Minister of Defence. We do know that Joe Modise retired not that much later, so obviously there was a  
25 successor coming. I believe that it is eminently possible, I do not bear a

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burden of proof, thankfully, in this regard I am just bringing the evidence to the Commission, that it was Mr Jengeni's own testimony, recorded by the German party, not the German investigators, they did record it but it was also pre-recorded by Mr Honings, who [indistinct] signed both the

5 bribery agreement with Mr Jengeni, and the subsequent one with Chippy Shaik. So, there seems to be a pattern here, that it is eminently possible, that he had the way with all, to influence the people in government. Mr Jengeni to this day, despite a criminal conviction, related to something involved in the arms deal, certainly not directly, is

10 still a member, a very important member of the National Executive Committee. He was far, far more important in 1995 than he is now, and my view is that he certainly had the capability of doing so. But, anyway it does not matter. He said he did, the Germans recorded that he said he did, and therefore were prepared to pay him 2.5 million Dutch Marks.

15 ADV KUPER: Just a couple of questions arising out of that, because I do not want to debate further your theories of what Mr Jengeni's capabilities were. You are referring I take it to a German *tutonic* memorandum as you call it. Is that right?

DR YOUNG: Well, I only called one particular memorandum the *tutonic*

20 memorandum, and it is not meant in jest, it is just [indistinct] opposing it with the French equivalent, which is well known now as the French Encrypted Fax. But, the *tutonic* memorandum had nothing to do with Tony Jengeni.

ADV KUPER: So, which is the document from Mr Jengeni that you are

25 referring to?

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DR YOUNG: It is just the German investigating report.

ADV KUPER: You have said document of Mr Jengeni. You do not say what someone said Mr Jengeni said. You put it to the Commission there is a confession as it were, by Mr Jengeni. I am asking you to  
5 show us where that is.

DR YOUNG: You see, you are actually wrong. I did not say that at all. What is said is the document, being the German investigation report, reports that Mr Christoff Honings had documented himself that Tony Jengeni claimed that he was responsible for getting the Germans back  
10 into the game by means of the defence review. That is what I said. I did not say that there was a document signed or written by Mr Jengeni in this regard. I have never educed such a document. So, I am afraid you are wrong when you say that that is what I said. What I have just repeated is what I said.

15 ADV KUPER: The next question I have is, what right have you to describe the *tutonic* documentation as it was official German investigative reporting, when you know you have not had the authority of the German prosecution to use the document. You have taken the document in a way in which they have no knowledge that you acquired  
20 it? You know perfectly well you rudimentary and preparatory it is, and how wrong it is of you to ascribe this as if it were final determinative German investigation.

DR YOUNG: Well, again you see, you are wrong. I have never described it as that. I have described it, in fact a number of times I have  
25 described it as a series of three investigative reports, done by mandated

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people, being the German criminal investigating department in Dusseldorf. Their reports seemed to be official reports. I have never ever once said that they are final. So, I am afraid you are trying to put words in my mouth like that, it is actually incorrect to do so. What I have  
5 said is, this is what exists, and the other thing is, this very issue was ventilated by yourself right at the very, very beginning on day two of my testimony, and you indicated that you would be challenging the admissibility of it, and the Chairperson has made a ruling that it was going to be admissible, and I only addressed it after that. Everybody  
10 knew fairly well the Chairman himself acknowledge having it, so he must have been aware, or at least some idea of what I was going to address. He may not have thought that I would address every single one of the 40 pages, which is what the issue was regarding that ruling. But, if the ruling had been made that this document is so rubbish, so absurd, so  
15 unacceptable, so non-final, so whatever, then I would not have used the document in my evidence.

CHAIRPERSON: I am sorry, Adv Kuper. I am not certain quite where Dr Young gets his view that I ever said that this document is going to be admissible. There is no such a ruling, as far as I can remember, unless  
20 if some of those counsels were present, can remind me at what stage did I make a ruling about the so called German investigating reports. I am not aware of such a ruling.

DR YOUNG: Sorry, sir. I did not say that there was such a ruling. I said based on that objection from Mr Kuper, you made a different ruling.  
25 What I am saying is that no ruling, that the documents were admissible,

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was made. Not that there was a ruling, it is there was not a ruling. But, more important is that the issue was ventilated, and my memory is not perfect, but I think there may have been a statement from Mr Kuper that may well later, or in argument, may argue for the admissibility, and I think that was “Yes, you can argue with that later.” But, certainly, I am only working from memory, but certainly it was not ruled inadmissible at that stage. That is my point.

ADV KUPER: If we may proceed, what you have done is that you reminded me that I had referred to, but not read out, the responses of the Public Prosecutor’s Office of Bochum, and I just want to do that very quickly, before we move on. If you will turn to Volume 4 of the CROSS-EXAMINATION FILE at page 745, in the letter written to the lawyers for Mr Jens Gesinn, the prosecutor under his further reasons, had said in the second paragraph”

“As regards the background assumed by the author of the memo [filed as] folio 7 et seq of the files (bribery of foreign officials) it is to be noted that no specific, or substantial evidence whatsoever exists that would corroborate this assumption. Neither the “experience gained in criminalistic practice” nor “unconfirmed press reports” are suited as sufficient evidence of a criminal offence within the meaning of the Strafprozessordnung. The documents and deeds found in Ferrostaal AG offices, do not commit the inference as to the funds paid to “Mallar” having been forwarded to foreign officials within the meaning of that German statute.”

And then of course this paragraph:

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*“Not only is it impermissible, it is in fact wrongful to use a purported case of tax evasion, which has in fact not been perpetrated, as a pretext for excessive investigation [pursued with the intent of proving assumed malfeasance] with a view to the presumed criminal offence of bribery.”*

5 So, Dr Young, it does not seem as if I am entirely alone in my categorisations to which you refer.

DR YOUNG: Am I allowed to make response, or are you just making a statement?

ADV KUPER: Is there anything you want to say?

10 DR YOUNG: Absolutely. First of all, you know you just read this out, this document is in context of Ferrostaal. It does not come from the Public Prosecutor's office in Dusseldorf, which was responsible for the Tissen investigations. This has got nothing to do with the Tissen investigation, it is Ferrostaal. It says so. If you look at the details of it, it  
15 talks about the amounts of money in respect of Mallar, as being still on Ferrostaal's books. That is quite a different case to the Tissen case, where the money had been paid to Tony Jojaress, and [indistinct] to Mallar, okay. The fact that is in respect of not only Bochum, but Mr Gesinn, has got nothing to do whatsoever, with one single one of the  
20 individuals that I referred to when I was traversing the three German reports. Secondly, the letter itself stands alone. Whatever has been provided to me here, as I have an English translation, which seems to come from something else in German. In fact, the German one is written by hand. But anyway, I do not think that there is anything in this  
25 Gesinn letter that is directly relevant whatsoever, even the smallest

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miniscule iota that relates to the Tissen case.

ADV KUPER: When you went to the Public Prosecutor of Dusseldorf, was the Public Prosecutor of Dusseldorf prepared to stand behind anything that you were asking him to do, or make any representations in  
5 regard to foreign bribery?

DR YOUNG: No. He only referred me to the Public Prosecutor in Dusseldorf, not to Bochum.

ADV KUPER: I am talking about the Public Prosecutor in Dusseldorf. What did he do when you approached him?

10 DR YOUNG: He basically said that they are only allowed to interact or correspond with official investigators.

ADV KUPER: But, he also said to you these preliminary proceedings to which you refer in your email, were closed by the 13<sup>th</sup> of June 2008.

DR YOUNG: Yes, I acknowledged right from the beginning that I knew  
15 that the German investigations were indeed closed in 2008, the latter half of 2008. My understanding from those German reports, as well as the more official letter of request, the MLA, is in respect of the statute of limitations coming in in Germany, as regards the prosecution in Germany of German persons. Also, the most important thing which you  
20 read out yourself, is these reports were clearly intended for South African recipients, and it was their hope that whatever they had done in this preliminary stage, would be furthered by investigations in South Africa. My understanding is that this Commission of Enquiry is one of those processes.

25 ADV KUPER: Yes. I am sure you can rest assured that this

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Commission will in due course weight up what you have said, will look at the documents and make an assessment.

DR YOUNG: Yes. If I also may say, well, I can say we know for a fact, because I have testified that and it does not seem to have been  
5 challenged, is that at least one of these reports was in the hands of Colonel Jan du Plooy, and he only met me to discuss this issue, in the latter half of 2009. I think it was in the third quarter of 2009, if my memory serves me correctly. He specifically asked me to be the formal complainant. How can it be that they can be asking me to be the official  
10 complainant in the third quarter of 2009, when what they are working on, and I am being specific here, what they were working is what he showed me just that one page or so, regarding the Chippy Shaik bribe and the relevant bribes. Why would he have showed that to me in 2009 if this total investigation was completely irrelevant, have been closed with a  
15 finding that every single allegation, or suspicion had been found not to be true? There is no logic in that, it is call [indistinct] logic in legal speak. I am a South African and I am testifying before a South African Commission of Enquiry. I am testifying in respect of what I knew in this particular leg, or theme, which came to my knowledge in 2009, and  
20 endured until the investigations were closed down inexplicably, my view at least, in September 2010. So, all of my logic stands good, for at least bringing this to the attention of this Commission.

ADV KUPER: Have you finished everything you want to say?

DR YOUNG: Maybe not everything, but for the moment I have said  
25 what I want to say on that particular point.

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ADV KUPER: I want to proceed to a short, in fact a number of short topics, if I can optimistically use that description in regard to your cross-examination. What I want to discuss very briefly with you, is this technical question of the Fibre Distributive Date Interface, the FDDI, which we have come across from time to time in your statement and in your evidence. I just want to fit it into a context. I understand you to have told the Commission that the standard to be used, the bases of the technology, that you had been instructed to use for the purpose of Project Deodon, was this FDDI. Is that right?

5  
10 DR YOUNG: Yes. Well, that was the second part. The first part was to use fibre optics, and based on that critical decision, it made logical sense therefore also to use FDDI.

ADV KUPER: In 1993 FDDI was the technology to be used for Project Deodon. Is that right?

15 DR YOUNG: Well, not only Project Deodon. That particular letter, written by Pierre Meiring to the Chief of the Navy, for the attention of Captain Kamerman, was Project Deodon and all future surface naval vessels in the South African Navy.

ADV KUPER: Forever?

20 DR YOUNG: No, until they wrote the next letter overturning it, or did the next... You know, all these things are preceded by a formal thing called Trade of Studies. Until the technology became obsolete, or superseded by something better and a trade of study was done, then that would stand until the next instruction.

25 ADV KUPER: Was there ever an instruction that FDDI was to be

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utilised in Project SITRON?

DR YOUNG: I do not think there might have been a self standing letter of the same type, but as we looked at the pretty diagrams this morning on pages 750 and 748, the one that I elected to use actually says FDDI  
5 Data Bus. So, certainly in the baseline documents, the contractual baseline documents, the reference to FDDI is very clearly there. It is also more emphatic in terms of the specification which used what I think we call the imperative form, is [indistinct], the safe net standard shall be used. In fact, it actually refers to the number of that standard because  
10 there are two [indistinct] 2204A, which is the Survivable Adaptable Fibre Embedded Network, and that is based fundamentally on the FDDI technology. So, every single imperative coming out of the baseline at that stage, certainly would prescribe the use of FDDI.

ADV KUPER: All I was asking was whether you could point to anything,  
15 or a single document, saying that FDDI had to be utilised in Project SITRON.

DR YOUNG: And the answer is, yes, I can.

ADV KUPER: That is my reference to the baseline, which you mentioned.

20 DR YOUNG: Yes, well specific documents in the baseline. There is the user requirements specification and the platform requirement specification, is what I can remember. But, there is certainly two or more instances of that.

ADV KUPER: Now, the alternative, as I understand it one of the  
25 alternatives, is the Ethernet alternative. Is that right?

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DR YOUNG: Yes, it is an alternative, and that was the bases of the Detexis Database.

ADV KUPER: I understand the Ethernet is in fact in use in the NATO Navies. Is that right?

5 DR YOUNG: Yes, it is. But, let us not be confused. Technically speaking, and I think I am getting more to my solid ground now. Ethernet consist of many different flavours. The current Ethernet that is used, in fact we even sell our Ethernet board, very similar to the FDDI board as well, to maybe not the US Navy, because they are still using  
10 the [indistinct] FDDI boards, but Korean Navy and Italian Navy and others, the Japanese Navy, and that is Gigabit Ethernet. That is quite different of what was originally identified with the Detexis Database. In fact, the very original one was 10MB per second. So, now we are getting slightly technical here, but in terms of the original standard of  
15 Ethernet, it was 10MB per second. Later something, about five or six years later, something called Fast Ethernet came out, that is 100MB per second, 10 times faster. The current state of the art is Gigabit Ethernet. Certainly, that is used. I mean, we now a decade or more down the track from FDDI. It is still used in the US Navy, I am still selling these  
20 FDDI boards every single month of the year to the US Navy. But, in any case, the Gigabit Ethernet is not the bases of the Detexis Database, as far as I know. Well, it was not then.

ADV KUPER: As I understand it, and as I say I want to be very brief about all of this, the FDDI technology, call it your bespoke technology, is  
25 not being developed anymore, it is not being used accept in vessels that

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were built earlier, and were built with the FDDI, and where it will cost just too much to convert to Ethernet. That has given you a very nice market in the supply of the older US Navy ships with FDDI. That is the position, is it not?

5 DR YOUNG: It is not. You see, you are talking from a position of ignorance, and you are just making that as a throwaway statement. I am involved in this stuff, that is my bread and butter, other than preparing statements for Commissions of Enquiry. Sure, the FDDI technology is no longer used for the newest designs, but that does not  
10 mean to say it is not used for brand new ships. In fact, I have current orders now, with Ratheon in Arizona, and in the Naval Surface Warfare Centre in California, for new ships. The newest class of warship in the US Navy is called the San Antonio Class [indistinct], and I think they are building 20 of these vessels, they have built half a dozen so far, and  
15 whenever they build a new vessel, one every couple of years, we get orders for brand new vessels. I can tell you that even though this technology is end of life, it is not dead, it is just that you do not put it into new designs. But, most of the non-egis class, and hopefully your own witness will be able to tell you what this is, non-egis class surface  
20 combat vessels of the US Navy, including its aircraft carriers, maybe not the very latest one, the George H Bush, the previous ones, San Antonio class, but its equivalent to the Combat suit is called the SSDS Mach2OA, that stands for Ships Self Defend Systems Mach2 Open Architecture, used our FDDI technology to this very day. So does  
25 various elements of the Japanese Navy, and [indistinct].

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ADV KUPER: Thank you, Dr Young. I think we are able to understand that notwithstanding the crux ignorance of the questions, the modern technology in the modern designs is indeed Ethernet, or Ethernet derivative. But, it is of little consequence. Let us proceed to something  
5 that is more relevant. I want to ask you questions about the IPMS simulator.

DR YOUNG: Okay.

ADV KUPER: The IPMS simulator onboard, performs monitoring and control of the ship's machinery, the damage control systems, and the  
10 IPMS simulator is the shore based training simulator on which the ship's machinery crew can be trained to operate the onboard IPMS. Is that right?

DR YOUNG: Yes. That is correct.

ADV KUPER: It is your contention that C<sup>2</sup>I<sup>2</sup> was selected as the  
15 supplier for the shore based training simulator, and it was then deselected at a late stage. Is that right?

DR YOUNG: Yes. That is correct.

ADV KUPER: One of the attacks you make on Admiral Kamerman, is that he falsely denied that C2I2 had been selected, and he had the  
20 demerit to state that C2I2 had only been listed as a potential supplier. Is that right?

DR YOUNG: Yes. I can remember he actually stated, and I do not think it is before this Commission, but before the Bakwa, is that the state had never selected C2I2 in any way to supply the IPMS simulator.

25 ADV KUPER: I understand you went further, before the JIT hearings,

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with a theory that the deselection had occurred to punish you for crying foul in regard to other parts of the Corvette contract. Was that your contention before the JIT?

DR YOUNG: It was, yes. At that time.

5 ADV KUPER: Is it still your accusation?

DR YOUNG: No. I have approached this theme from a different angle, and that was that we were actually selected, and inexplicably we were then deselected.

10 ADV KUPER: But, you no longer contend that that was the result of some kind of improper conspiracy between the state and the main contractor, to punish you.

DR YOUNG: I am not contending before this Commission that. No.

15 ADV KUPER: Bear with me, Chairman, I am just looking for a letter. I want you to go to your own files of documents that were put in with your statement and your evidence, to FILE 1, and I am going to refer to RMY10, which will be found on page 131.

DR YOUNG: I know we are on a theme here, but I just want to remind that it is now 15:45, and I would like a body break, sooner, rather than later.

20 CHAIRPERSON: Maybe let me find out from Adv Kuper.

ADV KUPER: I am in your hands entirely, Chairperson.

CHAIRPERSON: No, no. The point that I want to find out from you, how long do you think you will still be busy with this witness?

25 ADV KUPER: Overall I will be busy with this witness I think for the rest of the day, and for some part of tomorrow. I had hoped to finish today,

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but it is not proved possible. But, if we were to sit the usual hours that we had been sitting, Chairman, then I am quite certain we will be able to finish comfortably during the course of the earlier part of tomorrow.

CHAIRPERSON: Maybe let us adjourn for 15 minutes, and I suggest  
5 that we will proceed until 18:00.

DR YOUNG: May I just submit, I have got an appointment not far away at 18:00 this evening. I just need time to pack up my computer, but if we could make it 17:45 or 17:50 that would help me.

CHAIRPERSON: Only 17:55.

10 DR YOUNG: Okay, I do not want to have an accident on the way, because otherwise I will not be here tomorrow.

CHAIRPERSON: Okay, let us adjourn for 15 minutes.

**(COMMISSION ADJOURNS)**

**(COMMISSION RESUMES)**

15 CHAIRPERSON: Thank you.

**RICHARD MICHAEL MOBERLY YOUNG**: (s.u.o.)

ADV KUPER: Thank you, Mr Chairman. Dr Young, we were dealing with this IPMS simulator. You have told the Commission what you no longer persisted in, and I am dealing with what you still do persist in.  
20 Can we turn to your statement at page 118, and in particular to paragraph 4.7.1?

DR YOUNG: That is correct.

ADV KUPER: In that paragraph, you make the assertion that C<sup>2</sup>I<sup>2</sup> was formally selected by the Project Control Board to supply the IPMS  
25 simulator, in terms of Mr Swan's letter to the GFC, dated 29<sup>th</sup> of June

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1999.

DR YOUNG: Yes, I do.

ADV KUPER: That is foundational to the complaint which you wish to make, and the investigation which you wish the Commission has to undertake, namely at the outset, you were formally selected, and hence  
5 if you did not get the contract you were at some stage deselected.

DR YOUNG: Yes.

ADV KUPER: The origin of that contention seems to be this letter of Mr Swan's of the 29<sup>th</sup> of June 1999. If you would be so good as to turn to  
10 Volume 1 of your bundle of documents.

DR YOUNG: All right.

ADV KUPER: I want you to turn to RMY10, which you will find at page 131 of Bundle 1.

DR YOUNG: Yes, I have that.

15 ADV KUPER: Is this the letter on which you base this complaint?

DR YOUNG: Yes.

ADV KUPER: As you say in your statement, it is a letter written by Mr Swan to the German Frigate Consortium. Did you see it at that time?

DR YOUNG: I saw it very soon after it was written, probably within a  
20 month or two, I cannot remember exactly when it was given to me for the first time.

ADV KUPER: By whom?

DR YOUNG: I will not divulge that.

CHAIRPERSON: I am sorry, Adv Kuper. Can you perhaps find out why  
25 he will not divulge the name of the person who gave him that letter?

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DR YOUNG: For the reason that the letter is self standing. We have already gone through the letter before, so there has been no objection to its authenticity. I certainly came into possession of this letter a number of times, but I was asked when the first time was, and I said it was pretty early on. Unfortunately it was given to me then by somebody who I do not think would like me to mention his name.

ADV KUPER: Again, Dr Young, as I have said throughout, you understand that it gives rise to a submission we will make on our side, as to the probate of weight and the credibility of the evidence you give, when you refuse to disclose these names.

DR YOUNG: May I respond on that? I am only saying that because I have also undertaken, I have sworn to tell the whole truth. So, if I get asked when the first time was I received it, then I did. But I received it many times, and I think I received this [indistinct] as well. So, unfortunately the fact that this letter exists and is genuine, has its probative value and its authenticity cannot be challenged.

ADV KUPER: Dr Young, we can accept then that you did not receive those through any official channel at that time.

DR YOUNG: Not the very first time, no.

ADV KUPER: If we turn this document to page 132... [intervene].

DR YOUNG: Before we do that, I just want to say there is nothing wrong that I got this document from that particular person. It is not a classified document. It is to the GFC and it actually says to the local GFC's representative Mr Sven Muller, it says:

25 *"Kindly inform, or supply as concerned with above decisions."*

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So, there was an instruction from Armscor, we are a supplier, we are on this list. So, if it had not been given to me by the first week of July, or August or whatever it was, it surely would have been given to me, or should have been given to me pretty soon thereafter. So, there is  
5 nothing on toward about that. But, I am just telling the truth, the first time it was given to me, was by somebody who I do not imagine would like me to mention his name, and I have undertaken... A general thing, unless I feel comfortable and I think that they feel comfortable, then I am protecting what I have termed the sub-whistleblowers. It is simple, it  
10 does not need to be taken high or low, there is no scull [indistinct] whatever here. It does not undermine my evidence. This is not a top secret, or secret document that I could not have been in possession of, and it specifically, I am repeating myself, the instruction is kindly to inform all the suppliers. So, actually this should have happened very  
15 soon after the 19<sup>th</sup> of June 1999.

ADV KUPER: Have you finished, Dr Young?

DR YOUNG: Yes.

ADV KUPER: If you will turn to page 132, you will see that Mr Swan had annexed to his letter under the heading of the Combat suit, a whole  
20 series of suppliers for different components, and right at the end at page 133, we see a reference to the IPMS simulator at C<sup>2</sup>I<sup>2</sup>. Do you see that?

DR YOUNG: That is correct. Yes.

ADV KUPER: It is on that bases that you have made the contention that  
25 you were the nominated supplier.

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DR YOUNG: Yes. Specifically is that the letter says

*“Project Control Board decisions regarding the Project SITRON technical baseline, at a meeting held recently, regarding the selection of major [indistinct] and suppliers for the Corvette program, the following*

5 *were selected, see the attached list.”*

So, yes.

ADV KUPER: If I can take you to paragraph 480 of your statement, you say that yet the letter to the preferred supplier, the GFC, dated 29<sup>th</sup> June 1999 from Lou Swan, the Chief Executive Officer of Armscor, was

10 entitled Project Control Board decisions regarding the Project SITRON technical baseline, and proceeded as follows:

*“At a meeting held recently, regarding the selection of major products and their suppliers for the Corvette program, the following was selected, see attached list.”*

15 You say:

*“The meeting in question was the Special Project Control Board meeting of 6 June 1999, when the minutes describe this as minutes of the decision making Project Control Board meeting, held in the Zipper Conference room at Armscor at a certain hour and date, to formalise*

20 *decisions with reference to Project SITRON’s Willis and Mouldstick.”*

DR YOUNG: Yes.

ADV KUPER: Now, the decision making meeting to which you are referring, is I think RMY9, which you will find at page 120.

DR YOUNG: Yes.

25 ADV KUPER: What in the letter do you want to point to in regard to the

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simulator?

DR YOUNG: Sorry, are you talking about the letter, or the minutes?

ADV KUPER: I am terribly sorry, the minute.

DR YOUNG: Can you just give me a second here?

5 ADV KUPER: Certainly.

DR YOUNG: Yes. I think that there two things that I was looking for, but I found one that will suffice for the moment. But, at page 3... Sorry, this looks like 2, the item 2 says Project SITRON, and the minute reads:

10 *“Project Officer Project SITRON presented a summary of supplier decisions made by the PCB, where alternatives were evaluated and considered. The following decisions were then ratified.”*

Then that goes through all the ones where there were alternatives, and that is the first part. The second part is item 6, which in the middle of page 3 says:

15 *“Single source tenders. The Chairperson asked [indistinct] to provide CEO Armscor and Chief of Acquisitions with a list of single source equipment selected for the Corvette.”*

ADV KUPER: So, I will ask my question again. Where is there any reference in this minute to the simulator?

20 DR YOUNG: It does not refer to the IPMS simulator, it refers indirectly or by inference in respect of the items addressed in paragraph 6, which is single source tenders, and that letter from the Chief Executive Armscor, contains both the selections for the items where there were alternatives, which derived out of the decisions made out of this  
25 meeting. The other ones, which are on the tables, were clearly the ones

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that were single source suppliers.

ADV KUPER: Do you understand, Dr Young, that item 6 whatever it means, is talking about something which did not exist at the time, but which had yet to be compiled?

5 DR YOUNG: No, I do not think that is a reasonable inference. You know, maybe a particular table or list that had to be sent [indistinct], maybe that list had to be compiled in a specific form, maybe that is correct. But, the identities of the single source suppliers were well known at this stage to the joint project team headed by the Project  
10 Officer. In fact, we know for example, is that all of the South African systems were selected by virtue of their previous nomination. The only ones that went out to a competitive tendering process, was the SMS, and the NDS. Those selections had also been made in April, so basically all the single source suppliers, or where there had already  
15 been a completed bidding process, were certainly known to the joint project team.

ADV KUPER: Dr Young, can we at least agree that in this minute to which you referred in you statement, there is no express reference to the simulator or to C<sup>2</sup>I<sup>2</sup>?

20 DR YOUNG: There is not an express reference. But, that is a direct answer to that direct question.

ADV KUPER: Just leave it there.

DR YOUNG: No. [Indistinct] relevant, is there is a very clear non-express reference to a set of sub-systems, which includes the IPMS  
25 simulator, that then getting included in the follow up of this Project

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Control Board meeting, actioned by Mr Lou Swan on the inputs of the Project Officer.

ADV KUPER: Have you ever seen a list of single source equipment, provided to the CEO of Armscor, or the Chief of Acquisitions?

5 DR YOUNG: Not directly, except in the form of this letter.

ADV KUPER: The answer is no, you have not seen such a list.

DR YOUNG: I did not see the raw list sent, but it is clear enough that...

Or two things are clear enough, that the CEO of Armscor compiled this list from something that was given to him, and the more importantly,  
10 more starkly, it includes the IPMS simulator.

ADV KUPER: An alternative possibility is that when Mr Swan wrote his letter and referred directly to this minute, he was making a mistake in suggesting that the simulator had been dealt with, and that C<sup>2</sup>I<sup>2</sup> had been named.

15 DR YOUNG: It is possible, but it is very improbable.

ADV KUPER: Indeed, that may not have been the only mistake made in Mr Swan's letter, as we will now see. Will you keep the schedule to Mr Swan's letter in front of you, that we have just looked at, and at the same time will you turn on to page 1049?

20 DR YOUNG: Where will I find page 10...

ADV KUPER: I am sorry, I am falling into the trap of giving you page numbers from different files. You have got page 132 in front of you, you have got that list there. I want to refer you... Sorry, Chairman, we just got to deal with some of the logistics here. You have the file in front of

25 you, Dr Young?

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DR YOUNG: Yes, I do.

ADV KUPER: Will you turn to page 1049 in that file?

DR YOUNG: I have got that.

ADV KUPER: This is a letter from GFC, the Hamburg office, in  
5 response to the letter dealing with the letter of the 29<sup>th</sup> of June. Had you  
seen this letter before?

DR YOUNG: No. I think that this is one of the most classic cases of  
ambush that I have ever experienced in my life.

ADV KUPER: Will you take a moment and read the letter, please? It is  
10 very short.

DR YOUNG: Yes, I have read the letter.

ADV KUPER: You will see that in two respects there is a correction, or  
an objection to what had been sent. The first is that the agreed supplier  
for the autopilot is LITEF, and if you look at page 132... Sorry, I am  
15 looking for this autopilot reference. There, it is at page 133. You see,  
according to the list sent to GFC, the autopilot was shown as Anshcuntz.

DR YOUNG: Yes, I can see that.

ADV KUPER: Here Mr Stern is responding to say the agreed supplier is  
LITEF.

20 DR YOUNG: Yes, I can see that.

ADV KUPER: And the second correction he is making, is that for the  
IPMS simulator a decision concerning the supplier is open. Do you see  
that?

DR YOUNG: Yes, I can see that.

25 ADV KUPER: So, what we have is on the one hand the letter from Mr

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Swan, referring to a minute which does not reflect such a selection, and on the other hand an immediate response from GFC which says that the question of the simulator, a decision regarding the simulator is open.

DR YOUNG: I can see that.

5 ADV KUPER: There is no response from Mr Swan to contradict, or to challenge that position.

DR YOUNG: Not in this bundle of documents that you have given me.

ADV KUPER: The upshot, Dr Young, is that this business of looking at other people's letters, leads you to a situation here where you have not  
10 got the whole picture, and presumably you did not know that this letter of Mr Swan was not correct in its terms regarding the simulator.

DR YOUNG: I did not right at the beginning, but as I have said before, by the time of the JIT hearings came around in 2001, or the hearings in 2015 had come around, I have been in receipt of this letter formally, and  
15 properly and whatever else, and I have never seen anything to the contrary. If I may say, is that... The first thing, in my prior application, why was this document not provided to me? It should have been, it absolutely should have been. There was no necessity that one is one [indistinct]. Secondly, I have been asking in terms of this Commission  
20 for something like two years or something, asking for information for my evidence. This clearly, because it has been addressed before, is something that should have been given to me. Unfortunately I have to say something fairly frank now, is the fact that those two instances, well three, I have never seen it before, it was never communicated to us by  
25 Armscor, or the DOD, or the GFC before, and in the light of the evidence

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that I am going to carry on, because this has now become a nontrivial point at all, that I have to conclude that this is a manufactured document. Unfortunately I have to say it, I think it is a fraudulent document.

5 ADV KUPER: Well, have you any good reason for saying that, other than that you do not like it?

DR YOUNG: Yes, plenty, plenty, but it is going to take me the rest of the day it seems. Okay.

CHAIRPERSON: I am sorry, Dr Young, if it is going to take you the rest  
10 of the day, maybe do not answer it, because we do not have that much time.

DR YOUNG: Certainly not. I am not going to leave this point here. But, anyway, the first thing is even what I am being ambushed with right now, and my contention that this is a fraudulent manufactured document, in  
15 fact Adv Kuper took me to task when I had different correspondence on different letterheads, and this very same two consecutive letters from the GFC, also have substantially different letterheads as well. But, never the less, be that as it may, what points to my evidence being correct... Okay, let us leave that aside for the moment. Even if this was  
20 true, that is not the only, or even the main point that I want to make. Admiral Kamerman has said in his evidence before the JIT Public Hearings, and I have educed this evidence before, for the purpose of brevity, I am just going to read these sentences, starting off at page 1215 line 10:

25 *"But, I am now going to come to the fact that he alludes to the IPMS*

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*simulator who was selected by the state.”*

Then, on the next page at 1216, it says:

*“As can be seen, there is no substance whatsoever to Mr Young’s claim that he was selected by the state to supply the IPMS.”*

5 Now, there unfortunately, is the lie, whatsoever. Clearly, and unless I have manufactured Mr Llewellyn Swan’s letter, then it was selected by the state. Simple, there is no other interpretation of that that is possible. If it was a mistake, then there would have been a change, okay, maybe indicated by this letter. But, I was, my company’s IPMS simulator was  
10 selected by the state. Simple, there cannot be anything else. My point is here he says this under oath, he lied, okay. That is my point. When it suits the occasion, these kinds of statements get made. Now it is suiting the occasion 14 years later, and I get confronted with something that should have been provided with many times. In the context of this  
15 very Commission, that is a document... I mean, Armscor and the DOD both did some kind of minimal discovery to me. I have to ask the question, why was this not discovered? It was known what I was going to testify about, because it was backed up in my discovery schedule. That is a giant omission. It is not a giant, giant issue, except for the  
20 purgery that is going on here, and the fact that it has now been pointed out to me that I am the one that is incorrect. Sorry, I am not incorrect. But, anyway, it carries on further, but I am going to give myself a small break to have a sip of water. The next thing I do not have right in front of me, but as far as I remember it is in my witness statement. I  
25 remember two particular things. In a letter from Mr Pierre Monot, who is

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now part of the prime contractor by this stage, he writes in a letter to my attorneys [indistinct], and he says to my attorneys that as far as I remember, that your client has been selected for a part of the platform system, being some machinery control system. Now, it can only refer to  
5 the IPMS simulator, because we were not involved in anything else whatsoever. We were never asked to supply any quote for any other part whatsoever, other than the IPMS simulator. So, he has to be talking to that. But, far more, getting back to Admiral Kamerman, is his states, not under oath unfortunately, but to [indistinct], but it is certainly  
10 one of the letters that was submitted to [indistinct] by the DAPD, the Department of Defence's DAPD division, and that evidence there says he is also involved in an important [indistinct] involving the platform. So, that was in 2000, it was in October 2000. I was certainly at those to SCOPA meetings, they were public meetings, but I cannot remember  
15 that being educed orally into evidence, but certainly I have the document and I have them legally. But anyway, so that was a year later. So, clearly he had forgotten by then that sorry, C2/2 had now been replaced by something else. So, I am afraid to say the only conclusion I can draw, that this so called GFC letter is actually not  
20 genuine. I would say the reason is that is to protect the integrity of the witness in this instance.

ADV KUPER: Which witness in this instance?

DR YOUNG: Admiral Kamerman.

ADV KUPER: All right. So, we are dealing, the Commission must belief  
25 if you evidence is correct, with a letter which has been forged or

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fraudulently created to [indistinct] Admiral Kamerman.

DR YOUNG: Well, that is what it would seem to me, based on the black and white before us, in the context of all those other pieces of evidence, including whether it was his own document I cannot remember, but it  
5 was certainly his evidence.

ADV KUPER: Let us go on. If I can take you to paragraph 477 of your statement? You again are saying that C2/2 was the contractor for the IPMS simulator, but this time you are saying that this was the position as at January 2001, and you are referring, I think to support that, to what  
10 has become RMY100. If we go to the CROSS-EXAMINATION BUNDLE that you had just been given, Volume 5, if you go to page 948.

DR YOUNG: I have that contract of Security Plan open on my computer, and I am looking at the item that says 438 IPMS simulators. Is that the one to which you wish to refer?

15 ADV KUPER: Well, I first wanted to turn to the face page of the document, so that the Commission and everyone else can see what it looks like.

CHAIRPERSON: Page?

ADV KUPER: It is page 948, Chairman. It is correct, Dr Young, we are  
20 looking at the Project SITRON Contractor Security Plan?

DR YOUNG: That is correct. Yes.

ADV KUPER: We are looking, Mr Chair, at page 957 of that document. Just to check that that is where you are looking as well, Dr Young, page 957 shows in tabular form in regard to the platform, the reference  
25 number, the element and the subcontractor. Is that right?

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DR YOUNG: That is correct. Yes.

ADV KUPER: Number 438 is the IPMS simulator, and the subcontractor is Siemens/FRG RSA and C<sup>2</sup>I<sup>2</sup> RSA.

DR YOUNG: That is correct. Yes.

5 ADV KUPER: As far as you are concerned, was Siemens FRG a co-subcontractor with you?

DR YOUNG: Certainly my understanding when I used this document, is as we stipulated in our offer, that we would have to collaborate very closely with Siemens, if they were supplying the Integrated Platform  
10 Management System. Clearly when simulating the system we have to collaborate, and from a security plan point of view, it was my understanding that was why both companies are identified there. Now, if it is true that the selection had not been made, then of course it could take on a different meaning. I would acknowledge that.

15 ADV KUPER: Yes, of course. It would just mean as the letter suggests, that this was open and by now there were two candidates, the one was Siemens, and the other was C<sup>2</sup>I<sup>2</sup>.

DR YOUNG: Well, that is one interpretation. But, the other one is that they are both involved in this thing together, at least from a security  
20 point of view.

ADV KUPER: But, it would not be a subcontractor Siemens, if all it was doing was supplying goods to you, to allow you to perform the subcontract.

DR YOUNG: No, it would certainly be relevant in the context of the  
25 contract security plan.

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ADV KUPER: It would not be relevant or correct to name such a person as a subcontractor, Dr Young.

DR YOUNG: That is putting it too highly. This is just a contractor security plan, and without the benefit of that one particular letter which I  
5 have seen for the first time today, then it could easily mean that these two companies would be sharing technical information, and correspondence, and thereby be subjected to the security requirements of the project.

ADV KUPER: I want you to turn to page 1045, which is in the Bundle  
10 that was separately handed out, and which was designated for inclusion at the end of Volume 5.

DR YOUNG: Sorry, did you say the page is 1045?

ADV KUPER: I did.

DR YOUNG: That is the first page of this bundle.

15 ADV KUPER: Now, this bundle starts with the request for quotation from C<sup>2</sup>I<sup>2</sup> for an IPMS simulator. Do you see it is addressed by Admiral Kamerman to the German Frigate Consortium, for the attention of Mr Stone.

DR YOUNG: Yes, I can see that.

20 ADV KUPER: It bears the date the 21<sup>st</sup> of June 1999.

DR YOUNG: Yes, I can see that.

ADV KUPER: Let us just go through this letter.

*"The GFC offer for an Integrated Platform Management System training simulator was not accepted. The SA Navy has progressed to  
25 considerably way with developing generic Integrated Platform*

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Management System software with a local company, namely C<sup>2</sup>I<sup>2</sup> in CapeTown. It is our intention to transfer key technologies to the South African industry as part of the Patrol Corvette Program, where this is feasible and costeffective. The IPMS and its associated technology is

5 considered as such a system. Discussions with C<sup>2</sup>I<sup>2</sup>, Mr Gerhard Kruger, has indicated that a locally produced training simulator for the Patrol Corvette's IPMS is feasible, and budgetary quotations indicate that it may be the most cost effective solution, to obtain such a simulator. This based upon the same look and feel (MMI) as the MICO

10 IPMS, but running on local generic software. C<sup>2</sup>I<sup>2</sup> was instructed to prepare a statement of work for and concept description of the IPMS simulator, which now reflects the SA Navy's requirements. To effectively develop the IPMS sim locally, it is essential that C<sup>2</sup>I<sup>2</sup> work very closely with Siemens, to ensure that effective simulation may be

15 achieved. It is further more essential that the two parties confer with each other, to achieve a realistic quotation for the system development and to explore the extent of technology transfer possible. You are thus requested to obtain a formal quotation for an IPMS sim from C<sup>2</sup>I<sup>2</sup> based upon the attached statement of work and concept description, for

20 delivery by GFC as part of the main contract, and to be assist C<sup>2</sup>I<sup>2</sup> to get in touch with Siemens in order to assess the scope of cooperation and technology transfer possible, in order to prepare a quotation to yourselves before Friday 25 June 1999."

Have you seen this letter before?

25 DR YOUNG: Yes, as far as I know this is a discovered document.

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ADV KUPER: If we turn on to 1046, we come to the building specification, in respect of which paragraphs 13, 14 and 15 appear to be relevant.

“13. The system described above, reflects the Siemens offer against  
5 the budget included in the main agreement. 14. During the design phase, the system to be offered by C<sup>2</sup>I<sup>2</sup> shall be explored, in order to determine a functionally optimised scope of supply. It shall be within the overall allocated budget and functionality, and scope of supply shall not be less than that of the system described above. 15. Final supplier  
10 selection shall only be made after this detailed investigation.”

Have you seen this specification?

DR YOUNG: Not that I can remember. I see it was only declassified, and the date was 2014-03-25, so I cannot remember it.

ADV KUPER: Yes, it was declassified at the same time as the letter of  
15 Admiral Kamerman which we just pointed out.

DR YOUNG: So, in that case, why was it not supplied to me soon after March, in response to my request to the DOD for these kind of documents?

ADV KUPER: I understand you are familiar with 1045, but 1046 comes  
20 as a surprise.

DR YOUNG: All I can say is I cannot remember 1046. I do not want to be ambushed again to say you have it for whatever reason. I would be surprised if we have it because of the declassification. But, I cannot remember getting 1045, and certainly not the other one.

25 ADV KUPER: No, I am not taking issue with you as to when you have

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seen documents for the first time. I just do not know, I cannot deal with that. But, on the assumption that you are seeing these documents for the first time, it is appropriate to ask you to consider them, to consider them rationally, not to have an immediate outburst, but to consider

5 them. And perhaps leads to the conclusion that an impression that you had until now is erroneous and it is unfortunate that it was not cleared up before. That may be the ultimate conclusion of this whole matter, but I just want to press on and deal with it. I want to deal with the end portion of this IPMS simulator story. In paragraph 472 of your

10 statement, what you say is that Blohm and Vos first provided C<sup>2</sup>I<sup>2</sup> with a detailed requirement specification, and requested C<sup>2</sup>I<sup>2</sup> to supply a last and final offer by the 2<sup>nd</sup> of March 2001. As I understand it, you in fact did that, although after an extension of three days. Is that right?

DR YOUNG: That is correct. Yes.

15 ADV KUPER: C<sup>2</sup>I<sup>2</sup> was certainly not contending at that stage that it had already been selected in 1999. It was accepting and participating in a tender process here in 2001.

DR YOUNG: No, that is not the case. Our view there was that we had been selected, but this was not a tender process, this was just a matter

20 of updating and finalising offers. That is a completely different thing.

ADV KUPER: I will not even stop to discuss labels with you. I want to go on now to a matter that you have raised and attempted to explain, but which requires I think some more considered thought. That is a meeting that was held on the 6<sup>th</sup> of April 2001, where Mr Knight was

25 given the reasons why C<sup>2</sup>I<sup>2</sup> lost the competition. Can you please turn to

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1086-9? Sorry, just bear with me when I check that reference.1057, sorry, Chair. Now, Dr Young, this was a meeting attended by the C<sup>2</sup>I<sup>2</sup> director, who as I understand it, had been in immediate charge of this particular project.

5 DR YOUNG: Saying it was the immediate charge was also putting it too highly. By this stage the previous Project Director had resigned, and [indistinct] that position. So, as Project Director he was responsible for projects, but at this stage he had very little knowledge of this particular project.

10 ADV KUPER: Nonetheless, he attended in the capacity as a representative of C<sup>2</sup>I<sup>2</sup>, and participated in the meeting which followed.

DR YOUNG: That is correct. Yes.

ADV KUPER: The minute says:

15 *"The meeting was convened to get some general company information of C<sup>2</sup>I<sup>2</sup> and to discuss the offers dated the 24<sup>th</sup> of June 1999, and the 5<sup>th</sup>*

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*of March 2001, provided by C<sup>2</sup>I<sup>2</sup> for the LBTSS.”*

It goes on to say that C<sup>2</sup>I<sup>2</sup> has a permanent staff of 30 employees, had been 20 until 2000.

Was that right?

5 DR YOUNG: Approximately.

ADV KUPER: Leaving aside our own disagreements, it says it has been founded in 1992. Was that right also?

DR YOUNG: Yes. That is correct. Well, that is when we started business, in 1992.

10 ADV KUPER: It goes on to describe you as the main shareholder and to set out the company turnover as approximately R10 million per annum, with an increase tendency. Would that be right as well?

DR YOUNG: Yes.

15 ADV KUPER: Mr Knight, for it must be he, goes on to say that the main activities of C<sup>2</sup>I<sup>2</sup> are related to network cards, to platform management system demonstrators, to radar display systems, to some smaller automation solutions and the applications for instance in the ostrich farming had been supplied. That is also right, I take it?

DR YOUNG: Yes.

20 ADV KUPER: It goes on to say that:

*“C Square I Square stated (it must have been Mr Knight talking) that the development process for this project is divided into five main parts and they are, the system REQ.”*

What would that be abbreviated for?

25 DR YOUNG: System requirements review.

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ADV KUPER: The system requirements review, which had included four trips to Germany and work with Siemens, to clarify the ship's IPMS and so on, it also was hardware development and implementation of IPMS software package. It was engineering and software development  
5 of the simulator software and interface converter and the setting to work in tests and the handing over. I take it that is a fair description of what the development process, in C Square I Square had entailed, in regard to the IPMS.

DR YOUNG: Yes. That is reasonable.

10 ADV KUPER: Also, you will not be surprised that Mr Knight informed the meeting that:

*"There was clearly defined that the offer was limited to cover the simulation software and the hardware, the software development tools, the IPMS software package, parts of the software source code and the  
15 support for interface development are to be considered, to be provided by Siemens, free of charge."*

DR YOUNG: Ja. Although the term free of charge is not, this is, the Germans wrote this thing. Basically, it is customer furnished, customer furnished equipment, which does not have a charge. But, it is not quite  
20 free of free of charge. It is the wrong, the wrong terminology to use there.

ADV KUPER: Well, either the terminology:

*"We are agreed that what C Square I Square was both saying, at the meeting and was intending was that parts of its offer, would be including  
25 software development tools and other parts, which were to be provided,*

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*not by itself, but by Siemens and were to be provided, without C Square I Square, having to make any payment therefore.”*

DR YOUNG: Well, this is absolutely normal and in fact, it dove tails completely with what you read on the first page, of the letter from  
5 Captain Kamerman, regarding working extremely closely with Siemens and to ensure the effective simulation. You know, it is just impossible to simulate someone else's system, other than great, great enormous expense, unless you are using the software in the system, which is the IPMS and also using the relevant software, in the simulator. If we had  
10 to develop everything from scratch, then the IPMS simulator would have cost as much as the IPMS. So, it was just completely normal, to specify this, as customer furnished equipment. It would not, you see, it is not as though it was free of charge and that Siemens would have to pay for it. They already had it. All that [indistinct] is give us a copy of this  
15 software, under a non-disclosure agreement. But, it was not as though we were saying, well, our quote does not include all the costs, there are some hidden quotes, some hidden costs. This is a very, very normal thing. In fact, you brought me, my attention to the issue of customer furnished equipment in the IMS, but you did not take me back there. I  
20 did open up that document. But, again, there it is covered. I am pretty sure that most of the subsystems developing something, had some form or other of customer furnished equipment.

ADV KUPER: I do not remember myself, having read aloud, then, Captain Kamerman's letter that he was suggesting that the close co-  
25 operation between C Square I Square and Siemens would involve

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Siemens, having to provide products to C Square I Square free of charge. Did he so refer?

DR YOUNG: I do not know his exact words. But, for any technical person analysing the requirements or the contractual, or the offered  
5 point of departure, that is more or less what that means. Is you are working very closely with the company providing, the original equipment manufacturer, being Siemens, and then you are simulating or emulating what they are doing on a pc type computer, even a laptop, then that is, working very, very closely, that is technically what that means.

10 ADV KUPER: We can leave that for the moment and just press on ...[intervene]

DR YOUNG: If I may, just for example, I see, you want to dismiss my points. Here, in his paragraph, if you read the last sentence it says this, based on the same, okay, first of all, the most cost effective solution, it  
15 would not be the most cost effective solution, if you developed everything from scratch. There is also the whole issue, of course, of transfer of key technologies. That is absolutely fundamental. Certainly, we would not be paying for, for transfer of key technologies, under DIP. There is a subsection of DIP, called T-DIP and that is called Technology  
20 Defence Industrial Participation. Then, the last one in three is this simulator, based on the same look and feel, MMI stands for man machine interface. I have one in front of me, over here. It is the MECO IPMS, but running on local generic software. All of those, all of those things indicate the sharing of technical information and you call it  
25 product. It is just software. It is not like complete product and product,

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a piece of software product is something that runs. It is not what they call code fragments or snippets or whatever that is not part of a product. So, anyway, what I am saying, what I have just said it is completely incongruent on all fours, with this first letter at page 1045.

5 ADV KUPER: As a matter of interest, were you going to pay Siemens anything, for whatever Siemens was going to give you?

DR YOUNG: I do not think so. There would be no necessity to do, in fact, it is absolutely ludicrous that. If there is meant to be technology transfer from Germany to South Africa and from Siemens to us, why  
10 should we be paying them? There was nothing that they had to go and buy. All they had to do is give us a license to use or use their, their software, or whatever it was and there is the technology transfer. There is nothing to buy, to pay money for.

ADV KUPER: Well, perhaps Siemens might have a different view on  
15 this, but ...[intervene]

DR YOUNG: They certainly did not have, because we were not just dealing with Siemens in Germany. I personally went to a meeting with Siemens in South African in their head offices in New Germany in Cape Town. I was not the prime mover in my company, on the IPMS. But, I  
20 did go to that meeting and there, certainly, that there was no complaint from them whatsoever. They eventually, even though the technology came from Germany, my understanding is that the IPMS and the [indistinct] were actually, at least, implemented in South Africa. I met them. I was there. So, I can state from my own personal experience  
25 that was not, there was not an alternative feeling in Siemens South

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Africa, at least.

ADV KUPER: If we can go on, C Square I Square stated to use for the simulator software C plus, plus and realises that a conversion for the Siemens software tool X-Mat is required and a detailed interface clarification would be necessary. Do you know enough about this particular project and its detail to know that that is correct?

DR YOUNG: I am not a software engineer. I am a systems engineer. But, I understand just enough to say that sounds valid and applicable.

ADV KUPER: Projects of this complexity, for ship's simulation have not been realised by C Square I Square in former times. Equal automation plants or simulators have not been built or developed yet. Was that correct?

DR YOUNG: Well, not completely, completely correct. We certainly had been involved in the IPMS in South Africa for several years before that. We had working demonstrating systems. Even the little thing about the ostrich, we had automation systems there, vision systems and automation systems. Certainly, although we might not have, we certainly never had the chance to automate a whole ship before, in South Africa. But, we certainly had the capability for a small R5 million mainly software orientated project, such as this. This would have been a close to zero risk for both us and for Siemens and for GFC.

ADV KUPER: When this document records that C Square I Square has not done this before, it is correct, is it not?

DR YOUNG: Well, it is not completely correct, as I have just stated, we have not done a complete ship or a whole factory. But, we have

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certainly done the relevant part. This IPMS simulator, again, it is not an IPMS for a whole ship. It is just a very small, a small part that actually runs on the shore. If it stops working the ship is not going to sink. I know it is important for training, but certainly, in the context of what we could do and our price, technology transfer, there was no reason that we should not be, have got this contract.

ADV KUPER: It goes on to say:

*“The pre-condition for start of the software development is the availability of the IPMS ship’s software package. The delivery time of 30 months, including handover has been verified and could be shortened to 24 months, with the employment of an additional specialist. The C Square I Square question, regarding the availability of the software, has been answered to be mid 2002. Accordingly, I take it, to the development schedule of the IPMS software. This implies the delivery of the system in the first half of 2004.”*

Anything to say about that?

DR YOUNG: No. That is, that says what the words seem to have to say on paper.

ADV KUPER: And then, the document refers to the price increase:

*“Price increase of 29 per cent, from the 1999 to the 2001 offer has been explained, by C Square I Square, by realising the complexity of the system and the increase of man hour rates. A reduction of hardware supplies has been noted.”*

Anything you want to say about that?

DR YOUNG: Look, you know, from the original requests for offer, in

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1999 to this period in 2001 is, you know, going on three financial years. In this, in our industry, in this time, when, you know, when all this, when all the defence packages were either starting or running, the availability of technical staff in this country was extremely short, especially software  
5 engineers. The salaries, certainly increased by 30 per cent, in fact, probably close to 50 per cent in, over this period. So, it was a very reasonable thing, over three financial years, to increase, by a relatively modest 10 per cent per year.

ADV KUPER: But, the minute does not give that explanation. It says it  
10 has increased the price, by realising the complexity of the system and the increase of man hour rates. That is, I take it a truthful explanation. Is that not so?

DR YOUNG: Yes. Except if it does not give the apportionment between two, from the increase in complexity, of course, which was only  
15 supplied to us later. In fact, I think when we were sort of like ahead of the game, in terms of the time. We quoted accurately enough against statement of work and the concept description, which, when we wrote ourselves. Only much later, you know that technical base line was being changed and that means increase in complexity. But, anyway,  
20 what it does not say and I know, because the financial parts of this are my own responsibility in the company is that would have been, I think, the line share, of the increase was basically the cost of man power.

ADV KUPER: And then it deals with the effect of escalation, which we can leave aside. Dr Young, I am not sure I understand this correctly, so  
25 I would ask you, if you can, to confirm my understanding. But, if these

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are the delivery times that are required, the 30 months, which could be shortened to 24 months, would that not mean that delivery would have been 18 months late, in other words, 18 months after the first vessel had been delivered?

5 DR YOUNG: Well, I remember the first vessel was delivered in 2005.

ADV KUPER: Delivered at Cape Town?

DR YOUNG: That is correct. Yes.

ADV KUPER: Do you know when the ship sailed from Germany?

DR YOUNG: I might be wrong now. Maybe that was when handover  
10 occurred in 2005. I cannot quite remember. But, anyway, I am being  
confronted with some, you know, things that are not in my immediate  
cerebellum at the moment. But, anyway, what I, what I can say is that  
when we submitted our quote with our time scales in 1999, that was  
based on an eminently reasonable delivery time scale. If they decided  
15 to take another two or three, two odd years to actually even, I mean,  
they, I mean, you can see, they even asked us for an extension of  
quotation kind of a year later. Then, now we are talking about two years  
later. You know, it is the same analogy, unfortunately, is being able to  
make a baby in one month, by impregnating nine different women. It is  
20 just impossible. If they were serious about us, doing this work, then at  
least, this contract should have kicked off, in early 2000. It is just  
inexplicable, why this thing is only being discussed here, in 2001, so  
indeed, April 2001. I need to pause to say, it was not as though Blohm  
and Voss or GFC requested that we send somebody there. Alistair  
25 Knight was attending a completely different meeting in the UK,

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completely different thing, altogether. As a courtesy, because he had been, not even in Germany, but in Europe, we would go there and have this meeting. It was a meeting without my knowledge and unfortunately, you know, none of this stuff was put on the record with my knowledge.

5 Anyway, the point is, the main point, apart from that, that is a relevant point, it was, because it was a little bit of a meeting, by ambush. It is not, this was a courtesy meeting and not a, you know, if this had been a contractual meeting of this nature, I could have, would have gone there myself. That is for sure. Of course, they also made him sign the  
10 minutes in a hurry, look, and he was just about to miss his plane. So, he actually signed that under, certainly, under pressure, in fact, I would say, under duress. But, be that as it may, if the genuine requirement for delivery was 30 months or 24 months after the effective date of the contract for the, for the frigate, which was April 2000, not April 2001,  
15 that is when these things should have been addressed. A year later, it is impossible to make up that time. I could get nine software engineers working on it. I might not be able to afford it. But, nine software engineers cannot develop this, the software in the ninth of a period of time that one can do. It just does not work like that. So, it was, it was  
20 an impossible situation.

ADV KUPER: I understand the first delivery of the vessel was the 31<sup>st</sup> of January 2002.

DR YOUNG: That may have [indistinct].

ADV KUPER: Or wait a minute, 31<sup>st</sup> January 2002, or December  
25 2004? Bear with me. I just want to confirm. I have the date of delivery,

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31<sup>st</sup> of December 2002. Given that date, as a matter of fact, was C Square I Square in a position to have delivered the simulator, before that date?

DR YOUNG: Before we proceed with that, was that the date at that stage? Or was that the actual delivery date?

ADV KUPER: That is the contracted date.

DR YOUNG: The actual date, I think, I can see the in service delivery date was February 2006 and I think, my guesstimate from memory of the actual delivery date was not, was about a year or so before that. So, the actual delivery date was much, much later than the original contractual date. But, be that as it may, I think that that is an important correction to make.

ADV KUPER: Well, you are not correcting the fact that the contracted date for the delivery of the simulator was 31 December 2002.

DR YOUNG: I am not disputing it.

ADV KUPER: My question is could C Square I Square have made delivery in time, for that contract date?

DR YOUNG: It is theoretically possible. It would have been difficult. But, you know, I suppose I can leave it at that.

ADV KUPER: Yes. I am sure, we can appreciate that it would have been difficult.

DR YOUNG: Of course, what I can add and it is relevant is that difficulty was no difficulty of our own making. It was the fact that even after getting a, an effective date of contract in 2000 that, whoever it was, GFC, Blohm and Voss, just dilly dallied on this for at least, a whole year.

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So, how could we catch up a year? How could there have been, how could there actually, have been bona fide, that we are going to be doing this thing, if they waste, the first thing, it had to be delivered in 24 months and they waste 12 of that. Then, it could not have been bona fide. This is one, you know, part of the theme that I am trying to project.

ADV KUPER: Is there, as it were a new dimension, which is to the affect that GFC colluded with Siemens, to disable C Square I Square from performing, by giving Siemens proper warning of the required contract date, but of not assisting C Square I Square in the same way?

10 DR YOUNG: I do not think I will, I did or would put it like that. What I am saying is the reality is, if what were the facts that we have before us, without conjecture or jumping to conclusions is that this April, this meeting, which was not even called by them, is in April 2001. That is a year, after the effective date of contract. In that year, effectively,  
15 nothing has happened.

ADV KUPER: Did C Square I Square even know what the contractual delivery date was?

DR YOUNG: I am pretty sure we did. I do have the, the request for offer and our offer in my computer somewhere. I am pretty sure that we  
20 would not have, we would not have offered something as open ended as that. But, I stand to be corrected, because I do not have it in front of my face at the moment.

ADV KUPER: On the assumption that C Square I Square knew the delivery date, then it knew perfectly well, during all this time, whether it  
25 would be able to meet that contract date or would not. Did it advise

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Siemens? Did it advise GFC that it could not meet these dates?

DR YOUNG: Typically, the way we specify delivery dates, as we have seen, in the IMS instance, which you referred to me, earlier today, I think it was, the typical way is EDC stands for effective date of contract, also known as T zero, time zero, plus so many months. So, it, invariably, we would stipulate, specify a delivery date of T zero plus 36 months or 24 months or whatever it was. So that, if there were delays in receiving, or getting EDC, achieving EDC, or for whatever other applicable reason that our offer would still remain valid and not having actual calendar dates, like December 2002. We do not, you know, normally do that. In fact, it was a project rule. But, we did not do that. So, anyway, that is the way we would have handled that.

ADV KUPER: Or at least trying to move on. C Square I Square was informed on the 11<sup>th</sup> of April 2001 that GFC had decided to procure the simulator from Siemens and not from it. Is that not right?

DR YOUNG: Yes. As far as I can remember.

ADV KUPER: And it is also right that, at about that time, because the meeting had been on the 6<sup>th</sup> of April, at about that time, you had the minute, brought to you, by Mr Knight and as I understand it, never raised any correction or objection to its content.

DR YOUNG: I certainly, well, there was nothing that jumped out at me, that was so catastrophic, or critical that would basically cause, you know, cause Blohm and Voss to basically cease communication with us, regarding, giving us a contract. I certainly did verbally, when he brought it to me is, I indicated to him that I certainly was not happy that this, his

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courtesy visit, just to introduce himself as the project director, had turned out to be a meeting. That it was minuted and he had signed it, that I had not been involved at all, with a telephone call or whatever or, you know, a draft was sent to me. In fact it was fairly, it was just so stark that they insisted that he sign this thing before he leave, when they not only had he had a plane to catch, but he had a taxi waiting outside. They insisted on that happening. But, I certainly was not a happy chappy, as they say, that this happened.

ADV KUPER: It is odd, the very first paragraph that we looked at 1057, actually says that the meeting was convened to get some general company information of C Square I Square and to discuss the offers, provided by C Square I Square. You say that must be untrue. It was just a courtesy call.

DR YOUNG: As I said, Alistair was, I think, going to a meeting of the high speed databus users group. I think, it was in the UK. He happened to be in Europe. It would not have been a big trip across the channel, to get to Hamburg and he went there, for that reason. He did not go there with an agenda. He did not go there with my, or even, I think, or certainly on his knowledge or my knowledge that a meeting of this nature was suddenly going to take, to be convened. The word convened is that once he was there, from my remembering, discussing this with him, is he was more or less grabbed by the ear and said sit down here, we are going to discuss the IPMS simulator and then this, then this transpired. He did not go there with an agenda. He did not go there at their invitation that I can remember. He did not go there, with

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my knowledge that this was going to happen.

ADV KUPER: What we have were facts that the Commission has, is that he signed it and that, although it was brought back to you and although both you and Mr Knight could look at it at leisure, neither of  
5 you ever wrote back to say there was anything wrong with the minute or that you objected in any way, to the way in which the meeting had been convened. Is that not so?

DR YOUNG: That is so, because there was no real reason to raise, I do not think that that minuted meeting was the end of the IPMS  
10 simulator contract for us. That came later. The, there was, there was no reason to raise the temperature of our, whatever relationship we had with Blohm and Voss, by starting to object to minutes of meetings and things like that. So, no, it was not necessary. If, sure if it had been stated to me or Alistair, look the outcome of this meeting is going to be  
15 the make or break of this, then I certainly would have objected to him signing it. Even if he had signed it there, I would have objected to the contents of it, post facto.

ADV KUPER: But, you see, the meeting was on the 6<sup>th</sup> of April. He must have brought back the minute and you must have discussed it,  
20 within a few days after that. It was on the 11<sup>th</sup> that you were advised that GFC had decided to go to Siemens and not to C Square I Square. So, you got the minute almost contemporaneously with learning that you had lost the contract. So, if any was a time, if there was any ever time to write and object, it was then.

25 DR YOUNG: No. That is easy to say with hindsight. At that stage,

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you know, you say, it was contemporaneous or whatever the right word is, one thing was happening on the 6<sup>th</sup> and I received, you know, I cannot remember when Alistair came back, but he could easily have sent it to me, by fax, before he even got back. I do not know that. But, 5 well, the important part is that it was not stated out. There was no agenda for the meeting. It was not set out that, based on your responses to us, we will determine, whether or not, we go ahead with you, or we are going to review your performance. That was not stated to us. If that had been, even if it had been stated after the fact, in the 10 so-called, they call it a M, you know, minutes of meeting, or memorandum of meeting, whatever it is, if that had been stated, then I certainly would have objected. But, it came a week later and that was, then it was too late. I think, the chicken had flown the coup by then.

ADV KUPER: You see, immediately, that you were informed, that the 15 bid had been lost, you wrote, demanding a full explanation for the de-selection, which is what you did on the 12<sup>th</sup>, the next day and you followed it up with a lawyer's letter, calling upon them, to provide a proper explanation for the de-selection, as you called it. So, my point is you were not scared to raise the temperature. This was that important 20 that immediately, you got lawyers on the job. But, yet, you did not want to correct your minute, because you did not think it right to raise the temperatures.

DR YOUNG: No. I think, again, your logic is wrong, wrong here, and you are misleading me. I did not, there my response was once the 25 cancellation had come or the letter informing of the de-selection had

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come. That was more or less a week later, after this meeting. So, why did I want to raise the temperature, just on the basis, just on the basis of the minutes of the meeting? It was not necessary, at that stage.

ADV KUPER: I am trying to save time. So, I want to go directly, to the answer, which GFC sent, once they had been confronted with these letters of demand. You will find it at 1055 and it is dated the 1<sup>st</sup> of, am I reading it correctly? You will find it at 1055, never mind the date. Do you have it?

DR YOUNG: Yes. I do.

10 ADV KUPER: I see it is the 20<sup>th</sup> of August and they refer to the request to inform you about their internal evaluation process regarding the simulator:

*“GFC has received a proposal from Siemens for the IPMS system as a complete package, including the simulator in 1997. Approximately during the middle of 1999, the GFC has sent an enquiry to C Square I Square and received a respective offer. The proposals have been evaluated carefully, regarding technical and commercial aspects, according to standard procedures.”*

Do you have any reason to doubt that?

20 DR YOUNG: Yes. I do, because it is not standard procedure to request an offer in 1999 and still be evaluating it in, two years later, when there is a project deadline looming. That is not standard procedure.

ADV KUPER: I see. So, it was apparently evaluated according to irregular procedures. Is that the position?

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DR YOUNG: It is certainly not normal in my experience that if one requires this thing, by December 2002 that one is still messing around with the meetings and, in fact, not communication, but lack of communication, in April 2001. That is not normal.

5 ADV KUPER:

*“A second enquiry, based on the detailed requirement specification has been sent to C Square I Square in February 2001 and resulted in a second proposal, which also has been evaluated accordingly. This proposal, however, showed an increase in price, despite a decrease in*

10 *required scope of supply, which has been difficult for us, to understand.”*

Anything wrong with that?

DR YOUNG: Yes. Well clearly, that might be difficult to understand in Germany, where inflation is low. But, it certainly should not have been. In fact, it has been disingenuous to say, why they could not understand,

15 because they were, it was explained, explained exactly why, why there were price increased. There was, South Africa's inflation CPI, or whatever is much, much higher than Europe's. In that particular time, there was, in our own industry, let us call it, a hyper inflation, when R30 billion worth of strategic defence packages all start at the same time.

20 We were mopping up the available people. So, this is pretty late in the day, to be finding this, the requisite staff and of course, you do so at a premium. So, it actually is disingenuous. In fact, it is dishonest to say, why they could not understand that.

ADV KUPER: So, here again, you have lost a tender and any reason

25 that can be given for it, is dishonest.

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DR YOUNG: I am saying that this particular reason is dishonest, because they were, that is clear. It was explained, what the man hour rates were and the reason for increases in man hour rates, but they say they cannot understand that. The only way they can honestly say that, 5 is if they are only referring to the German or European situation. If they were honest, they would have considered this in the South African, and anybody, who has been involved in this industry and knew what was happening in that time period, would say the same thing as me.

ADV KUPER: It goes on:

10 *“Various queries from technical, as well as commercial GFC departments, regarding that latest proposal, have been combined to be presented to Mr Knight, the Projects Director of C Square I Square, at his visit at B&V, in April 2001, to get an idea of the general abilities of C Square I Square. The SU’s discussed at am meeting are reflected in*  
15 *the attached MoM.”*

But, then, comes:

*“The main reasons for a decision, in favour Siemens were, no C Square I Square experience in projects of comparative size and complexity.”*

20 Does that accord with what he said in the minute?

DR YOUNG: No. We certainly have experience in projects of comparative size and complexity. In fact, one of the things you took the Commission through is the R22.5 million of contracts, we have received on the IMS, of which the last was R6.5 million. The IMS makes this 25 project looks like micro mouse, in terms of complexity and size. Even

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what we did on at the ostrich vision, skin vision, tracking system was of comparable complexity. So, it again, it is not true that we did not have the experience of projects of comparative size and complexity. Again, that just is not true.

5 ADV KUPER: I do not know if you listen to the question, which would not be a surprise. The question asked, whether this was not in accordance with the minute.

DR YOUNG: I cannot remember it being in accordance with the minutes. I think the, the minute were exactly what the words were. I  
10 cannot remember. Certainly, I alluded to in not having the requisite experience in large ship or factory automation. I cannot remember of saying of comparative size and complexity.

ADV KUPER: You see, what Mr Knight had said, in a sense that he signed it was correct at 1058, in the third paragraph:

15 *“Projects of this complexity for ship simulation have not been realised by C Square I Square in former times. Equal automation plants or simulators have not been built or developed yet.”*

So, I put it to you again, is this not just a faithful extract from what had been discussed and minuted at the meeting?

20 DR YOUNG: I think it is somewhat opportunistic.

ADV KUPER: The next reason:

*“Is the whole software package would have to be supplied by Messrs Siemens. An adaptation from Siemens software to C Square I Square would become necessary, bearing risks regarding the interface, as well  
25 as costs.”*

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Is there anything dishonest in that?

DR YOUNG: Well, except that this was a change. This was not known to us and it should have been known to us, because we wrote the concept description and the requirements specification. So, clearly, 5 there is a change of the technical base line and requirements. So, this should be of no, of no surprise. So, you know, putting it like this, without explanation is not actually fully explaining the situation.

ADV KUPER: The next point they make is that:

*"The delivery time is outside the contractual time frame."*

10 Is that true or untrue?

DR YOUNG: Well, it would depend on what contract we are talking about. If there was a, if we are talking about the contractual time frame of the total Corvettes, then it might be in respect of the delivery times, at that stage. But, the time frames that we had stipulated it, of delivery of 15 T zero plus 24 or 36, it would not have been out of that time frame.

ADV KUPER: Yes. I think we are more worried about the contractual time frame, to which GFC was bound, not the contractual time frames anywhere else. Let us go on:

*"The costing is not within the existing budget for the IMPS simulator."*

20 What do you say to that?

DR YOUNG: Well that is hardly surprising, three financial years later. What did they, what did they expect, the price would still be the same, with three years of South African inflation and a change of the scope of work. So, again, all of these things may be true, but unfortunately it is 25 only true in a fairly simplistic way.

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ADV SIBEKO: I beg your pardon, Chair. At the risk of interrupting Mr Kuper's cross-examination, and train of thought, I just wish to bring to the Commissioner's attention that the witness had indicated that he has a six o'clock appointment. Perhaps this might be a convenient time to  
5 take the adjournment, if it is practical at this point.

CHAIRPERSON: Advocate Sibeko, I have been looking at my watch. I think I agreed with Dr Young that we will make the [indistinct]. My watch is to say that it is two minutes to ten to. So, let us utilise the two minutes.

10 ADV KUPER: That will allow me, Chair, to put a question that summarises all this. Dr Young, it seems to me that there were four good reasons to have found in favour of Siemens and against C Square I Square, in an open, fair and competitive situation. What do you say to that?

15 DR YOUNG: It is difficult for me to reconcile myself that this is open and fair. There is certainly, there are, just the dates, which are jumping from 1999 to 2001 that does not seem fair to me. Then, still expecting us to meet the higher level contractual requirements that does not seem fair. But, anyway, the most important thing is, is that until I was  
20 confronted with this strange document is that all the indications are that it was the Joint Project Team, who wanted the South African technology done by C Square I Square. We wrote the technical specifications and the concept description. It was a very fair price. In fact, there is another document, which you have not read, which talks about the price. So,  
25 this certainly is no the most open and fair tender process in which I,

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which I have ever come across.

ADV KUPER: Thank you, Chair.

CHAIRPERSON: Thank you. We will then adjourn and start again tomorrow morning at nine o'clock. Advocate Sibeko, my watch says 10  
5 to now. Thank you. We will adjourn.

**(COMMISSION ADJOURNS)**

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